

# **Coronavirus (COVID-19) domestic Covid Status Certification: Business and Regulatory Impact Assessment**

**November 2021**



**Scottish Government**  
Riaghaltas na h-Alba  
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# Domestic Covid Vaccine Certification – Business and Regulatory Impact Assessment – November 2021

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<b>Domestic Covid Vaccine Certification</b>	

**November 2021  
Business and Regulatory Impact Assessment**

**Title of Legislation**

**The Health Protection (Coronavirus) (Requirements) (Scotland) Amendment (No.4) Regulations 2021 - expanding the domestic Covid Status Certification scheme to include testing.**

Publication date 29 November 2021

**Legislative Background**

The *Health Protection (Coronavirus) (Requirements) (Scotland) Amendment (No.4) Regulations 2021* (the 'Regulations') are made under powers to make provision for the purpose of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection, conferred on the Scottish Ministers by schedule 19 of the *Coronavirus Act 2020*. They amend the *Health Protection (Coronavirus) (Requirements) (Scotland) Regulations 2021* (the 'Principal Regulations').

**Introduction**

This BRIA considers the impacts for businesses and consumers of laying the Regulations under the Coronavirus Act 2020 to expand the domestic use of Covid Vaccine Certification (referred to as 'Certification' hereafter) to include a negative lateral flow device (LFD) or polymerase chain reaction (PCR) test result taken within 24 hours prior to the event.

Policy proposal

Covid Status Certification will require certain premises and settings to ensure that there is a reasonable system in operation for establishing that all people in the premises can demonstrate that they are fully vaccinated, they have received a negative test result (LFD or PCR), or they are exempt and to refuse access to or remove anyone who is neither fully vaccinated, nor has received a negative test result, nor is exempt. "Fully vaccinated" means that a person has completed a full course of a Medicines and Healthcare products Regulatory Agency (MHRA) authorised vaccine, with the final dose having been received 14 days before the date on which they seek to enter the premises or event. A negative test result means that a person has received a negative LFD or PCR test in the last 24 hours.

Initially, the scheme did not include a negative test result as an alternative to proof of vaccination as we did not consider that it would be appropriate and believed it could undermine one of the policy aims of the scheme: to increase vaccine uptake. Based on the latest evidence, and a balance of harms, the Covid Certification scheme will include the option of providing a negative test, instead of proof of vaccination. This means that individuals can provide either proof of vaccination or record of a negative test to gain entry to the settings in scope.

This change makes it possible for more people to make use of the scheme, such as those who are not yet fully vaccinated. It also means that individuals who received a vaccine not recognised by the MHRA or have experienced difficulty accessing their vaccination record, will be able to attend venues covered by the scheme. We hope that the inclusion of testing will encourage the greater use of regular lateral flow testing and will still support us to achieve our policy objective of reducing the risk of transmission of Coronavirus.

The scheme will apply in the following higher risk settings:

- late night premises with music, which serve alcohol after midnight and have a designated place for dancing for customers
- indoor events (unseated) planned for 500 or more people at any one time
- outdoor events (unseated) planned for 4,000 or more people at any one time
- any event planned for 10,000 or more people at any one time

The following will not qualify as events for the purposes of the scheme:

- a funeral, marriage ceremony, civil partnership registration, or a reception or gathering which relates to a funeral, marriage ceremony or civil partnership registration
- a mass participation event such as a marathon, triathlon or charity walk
- an event designated by the Scottish Ministers as a flagship event according to criteria, and in a list published by the Scottish Ministers
- a drive-in event
- an organised picket
- a protest or demonstration
- a public or street market
- an illuminated trail
- a work or business conference (not including any peripheral reception or function outside the core hours of the conference, whether or not alcohol is served)
- a business or trade event which is not open to the public for leisure purposes
- communal religious worship
- an un-ticketed event held at an outdoor public place with no fixed entry points

Ministers have been clear that certification will not be a requirement for public services or other settings that many people have no option but to attend public transport, health services and education.

The following people will be exempt:

- under 18s
- people who can be neither vaccinated or tested for medical reasons
- people taking part (or who have taken part) in vaccine trials
- the person responsible for the premises
- workers and volunteers at the premises or event
- emergency services responders and regulators carrying out their work

The regulations will require the persons responsible for a setting to ensure there is a reasonable system in operation for checking that people seeking to enter the premises are fully

vaccinated, can provide record of a negative test result (either LFD or PCR), or are exempt, and to have in place a compliance plan for the system.

The amendments to the scheme will come into force on 6 December. Ministers must review the Health Protection (Coronavirus) (Requirements) (Scotland) Regulations 2021 (which include Certification) 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 any less intrusive measures could be introduced to achieve the same combination of policy objectives in respect of the higher risk sectors concerned; if so, the policy will be immediately reviewed.

Sectoral Guidance is published on the Scottish Government website [here](#). Guidance for the wider public is published on the Scottish Government website [here](#).

### Policy Objectives

In line with our strategic intent to ‘suppress the virus to a level consistent with alleviating its harms while we recover and rebuild for a better future’, the policy objectives of Covid Vaccine Certification from 6 December are to:

- **Reduce the risk of transmission of Coronavirus**, by ensuring that specified indoor public spaces where transmission risks are higher are used only by those who are vaccinated or can provide a record of a negative test within the previous 24 hours (or exempt): vaccination or a negative test within the previous 24 hours reduces (but does not entirely eliminate) the risk of being infected, the risk of serious illness and death if infected, and the risk of infecting others;
- **Reduce the risk of serious illness and death** thereby alleviating current and future pressure on the National Health Service, by reducing transmission in specified settings where transmission risks are higher;
- **Reduce the risk of settings specified in the scheme being required to operate under more restrictive protections, or to close**, by ensuring that the risk of transmission in these settings is reduced; and
- **Increase the protection enjoyed by those using settings covered by the scheme and their contacts**, by incentivising those using the settings to take up the vaccine and/or to test regularly and self-isolate if positive.

An evidence paper summarising the range of evidence available on Vaccine Certification schemes was published [here](#). A follow up evidence paper which sets out the evidence published on Certification since the original paper surrounding certification, including information on vaccination and testing, has been published [here](#). Consistent with our approach throughout the pandemic, the paper adopts a four harms approach covering the direct health harms of Covid-19, the indirect health harms, the social and the economic harms. Evidence is drawn from clinical and scientific literature, from public opinion and from international experience. This impact assessment should also be considered alongside the latest [State of the Epidemic report](#).

## Public health rationale

The COVID-19 epidemic continues to pose considerable challenges, with new case rates currently averaging around 3,000 per day, an increase from October. COVID-19 related acute hospital admissions have fluctuated over the past month but have recently started to decrease. Case rates and age standardised hospital admissions are considerably lower in vaccinated vs unvaccinated individuals. Modelling indicates uncertainty over hospital occupancy and intensive care in the next four weeks. Hospitals are currently at, or very close to, capacity and have been in this position for many weeks now with several Health Boards operating within an environment of unprecedented pressure and heightened risk plus a requirement for military support. This is likely to be driven by Covid-19 cases and delayed discharges but also may reflect that patients with higher acuity are now requiring admission.

As we prepare for winter, our primary and secondary health and social care services are facing arguably the most significant and increasing pressures and demands in the history of the NHS. The winter period will also pose significant challenges of increased transmission and related pressure on the National Health Service. We remain of the view that action is therefore needed across all sectors to ensure adherence to baseline measures. Drawing on the evidence so far available, we consider that Covid Status Certification has a vital role to play as one such measure.

While no vaccine is 100% effective at preventing infection, disease and transmission, and they do not completely break the link between a high volume of positive cases and serious pressure on healthcare services, they are our best route out of the pandemic. Vaccines help prevent transmission of the virus as vaccinated people are less likely to become infected and ill than unvaccinated people (and only infected people can transmit the virus). The UK Vaccine Effectiveness Expert Panel (VEEP) is a group of scientific and analytical specialists from academia and government in the UK who provide a consensus view on vaccine effectiveness, split by variant, vaccine and dose. They have published estimates for vaccine effectiveness based on an assessment of the evidence at the time of writing and as new evidence or data emerges, SAGE will update its advice. A summary published on 24<sup>th</sup> September can be found [here](#).

More analysis can be found in a number of large studies including EAVE-II (Early Pandemic Evaluation and Enhanced Surveillance of Covid-19) in Scotland<sup>1</sup>, Real-time Assessment of Community Transmission (REACT-1) in England<sup>2</sup> and the Office for National Statistics (ONS) Covid-19 Infection Survey ONS study.<sup>3</sup> Therefore, we have strong evidence that vaccines are effective at preventing disease, hospitalisations and deaths. In September 2021, COVID-19 cases increased and surpassed the peak that was seen in early July 2021 but have since declined and remained steady through October and November. The rate of increase in cases was less among fully vaccinated individuals compared to partially or unvaccinated individual. As of 25 November, 82.4% of the eligible population (12+) were fully vaccinated, and in the week 13-19 November 38.6% of positive cases were in unvaccinated individuals. However, effectiveness decreases over time for both Pfizer-BioNTech and Oxford-AstraZeneca vaccines due to waning immunity.<sup>4</sup> In the week 13-19<sup>th</sup> November in an age-standardised population, individuals were 3.3 times more likely to be in hospital with COVID-19 if they were unvaccinated compared to individuals that had received two or more doses of vaccine.<sup>5</sup>

Vaccine uptake has progressed extremely well in the Scottish adult population with approximately 79% of 18 to 29 year olds and 77% of 16 to 17 year olds having received the

first dose of the vaccine as of 24 November. Around 96% of people aged 40 and over have received two doses, but uptake of a second dose remains lower in people in their 30s (77.9%) and the 18-29 age group (69.4%) as of 24 November. Vaccine uptake has slightly increased since the scheme was announced, although it is not possible to directly attribute rises to the introduction of Certification. The proportion of those aged 12+ with a first dose rose from 86.0% to 90.5%. The proportion of those aged 12+ with a second dose rose from 77.6% to 82.2%.<sup>6</sup>

Two main testing methods exist for detection of SARS-CoV-2: LFDs or PCR. PCR is the recommended testing method if you have COVID-19 symptoms while LFDs are recommended only for people who do not have symptoms<sup>7</sup>. PCR is a highly sensitive and specific technique to detect SARS-CoV-2 and is a recommended diagnostic testing method by the WHO<sup>8</sup>. Specificity and sensitivity levels of >95% have been reported by SAGE for PCR testing<sup>9</sup>.

LFD testing is effective at identifying people with the virus when they are at their most infectious and have high viral loads<sup>10</sup>. A peer-reviewed study on sensitivity of the LFDs carried out by the University College London found that LFDs are more than 80% effective at detecting any level of COVID-19 infection and, therefore, can be an effective tool in reducing transmission<sup>11</sup>. Another study showed that LFDs are 95% effective and 89.1% specific at detecting COVID-19 when used at the onset of symptoms<sup>12</sup>.

SAGE endorsed the benefits that rapid antigen testing could have on reducing transmission when discussing the UK Government Plan B options; *“Other measures are available which, if introduced, could also make Plan B (or more stringent measures) less likely (and could potentially offer better efficiency or effectiveness) for example encouraging wider use of rapid antigen testing in workplaces and the community, and ensuring self-isolation of those who test positive by providing sufficient support”*<sup>13</sup>.

It is recommended to test twice weekly<sup>14</sup>, which will almost always identify Covid during early stages of infection and thus significantly reduce disease transmission<sup>15</sup>.

<sup>1</sup> [EAVE II | The University of Edinburgh](#)

<sup>2</sup> [The REACT 1 programme | Faculty of Medicine | Imperial College London](#)

<sup>3</sup> Office for National Statistics (24 September 2021). [Coronavirus \(COVID-19\) Infection Survey, UK](#)

<sup>4</sup> Public Health England (9 September 2021). [Duration of protection of COVID-19 vaccines against clinical disease.](#)

<sup>5</sup> [Public Health Scotland COVID-19 Statistical Report](#)

<sup>6</sup> <https://www.gov.scot/binaries/content/documents/govscot/publications/research-and-analysis/2021/11/coronavirus-covid-19-vaccine-certification-evidence-paper-update/documents/coronavirus-covid-19-vaccine-certification-evidence-paper-update/coronavirus-covid-19-vaccine-certification-evidence-paper-update/govscot%3Adocument/coronavirus-covid-19-vaccine-certification-evidence-paper-update.pdf>

<sup>7</sup> [Get tested for coronavirus \(COVID-19\) - NHS \(www.nhs.uk\)](#)

<sup>8</sup> [Diagnostic testing for SARS-CoV-2 infection \(who.int\)](#)

<sup>9</sup> [S0519 Impact of false positives and negatives.pdf \(publishing.service.gov.uk\)](#)

<sup>10</sup> [Asymptomatic testing backed by new research studies - GOV.UK \(www.gov.uk\)](#)

<sup>11</sup> [SARS-CoV-2 antigen rapid lateral flow test \(LFT\) sensitivity | CLEP \(dovepress.com\)](#)

<sup>12</sup> Comparing the diagnostic accuracy of point-of-care lateral flow antigen testing for SARS-CoV-2 with RT-PCR in primary care (REAP-2) - EClinicalMedicine (thelancet.com)

<sup>13</sup> [S1393 SPI-B SPI-](#)

[M EMG Considerations for potential impact of Plan B measures 13 October 2021.pdf \(publishing.service.gov.uk\)](#)

<sup>14</sup> [Coronavirus \(COVID-19\): getting tested in Scotland - gov.scot \(www.gov.scot\)](#)

<sup>15</sup> [Options for the use of rapid antigen tests for COVID-19 in the EU/EEA - first update \(europa.eu\)](#)



The optimal testing strategy in order to gain access to a high risk setting would be to take the test as close as practically possible to the time of entry. LFDs are less sensitive than PCR but have the advantage of providing rapid results, and SAGE has endorsed the benefits that rapid antigen testing (such as LFDs) could have on reducing transmission.

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.<sup>16 17</sup> Settings identified by SPI-B as high risk include public transport; places of worship; restaurants, shops, malls and markets; parties; cinemas; theatres; planes; large family gatherings; religious, cultural, sporting and political events; crowds; pubs and clubs; restaurants and cafes; hotels, cruise ships, hospitals and care homes<sup>18</sup>

By restricting access to customers who are fully vaccinated or who can provide a record of a negative test, it is less likely that infection will take place in these settings, and it is less likely that infections within them will lead to illness. Consequently, we can reduce the risk of transmission of the virus and help reduce pressure on health services, while also allowing settings to operate as an alternative to closure or more restrictive measures. As such, we consider Certification, as part of a package of measures such as improved ventilation, to be a necessary and proportionate public health measure.

#### NHS Scotland Covid App and Paper Certificate

On 30 September we launched the NHS Scotland Covid Status App (the “App”) for international use. This contains two unique QR codes, one for each dose of the vaccine. This product has been designed for use for international travel and so it is necessary to include full name, date of birth and details of vaccination to meet EU standards. This version of App can be used to demonstrate vaccine status in the settings in scope.

On 20 October, the NHS Scotland Covid Check App, which is used by venues to check QR codes, was updated so that when an international QR code is scanned for domestic purposes only, a green tick or ‘Certificate not valid’ representing someone’s vaccination status is displayed, rather than a person’s name, date of birth and vaccination details.

In order to further minimise data display, on 21 October, the Covid Status App was updated to include a domestic page. This option simply shows the person’s name and a QR code. When the QR code is scanned by the NHS Scotland Covid Check App it shows either a green tick or ‘Certificate not valid’ representing someone’s vaccination status. The domestic App has functionality to hide or display a person’s name. The Privacy Notice can be found on NHS Inform: Personal information we process, How we use your data, Your Rights.

The latest PHS report<sup>19</sup>, published on Wednesday 17 November, showed that the Covid Status App has been downloaded over 1.7 million times up to midnight on 20 November and we continue to monitor user activity. Up to midnight on 20 November, more than 1.27 million PDFs

<sup>16</sup> WHO (13 December 2020). Coronavirus disease (COVID-19): How is it transmitted?

<sup>17</sup> SAGE. [Insights on transmission of COVID-19 with a focus on the hospitality, retail and leisure sector](#).

<sup>18</sup> SPI-B (2 July 2020)

[S0582 High connectivity situations outside the occupational or workplace context 1 .pdf \(publishing.service.gov.uk\)](#)

<sup>19</sup> [Public Health Scotland COVID-19 Statistical Report](#), page 38.



have been downloaded since QR codes were introduced on 3 Sept, with over 516,000 printed versions issued.

For those who do not have digital access or would prefer a paper copy, a record of vaccination can still be requested by phoning the Covid-19 Status Helpline on 0808 196 8565. The paper record of vaccination will then be posted to the address that is held on the National Vaccination Service System (NVSS).

When registering an account on the App the user needs to verify their identity. This is for privacy protection as health data is special category data and protected by GDPR and human rights legislation (Article 8 right to respect for private and family life) and so additional safeguards and security measures are required to verify a person's identity before they are given access to their health records. The App uses biometric verification software following an options appraisal process which, at that point in time, did not identify another feasible option that met secure authentication requirements. Alternative routes to prove vaccination status, that did not require using the NHS Scotland COVID Status App, were already established (people can download a PDF or request a paper Certificate).

This means users are asked to scan a photo of their passport or driving licence and then to take a live photo of themselves. The software then uses their live photo to compare likeness with the photo in their ID and confirm their identity. There is manual verification for the small number of cases which fail the automatic process. For the limited number of cases where a person's identity cannot be verified in the App, individuals can call the Covid-19 Status Helpline, or use NHS Inform to request a paper Certificate, which will be posted to them. Additional forms of ID are being added to those that can be used already with biometric processing to ensure that inequalities in access are reduced. Further exploratory work on alternative (non-biometric) identity verification routes is underway.

Many countries accept negative PCR tests or recovery status as an alternative to vaccination, and we expect both of these functions, alongside booster vaccines, to be available in the NHS Scotland Covid Status App for international use only by mid- December. Further development work will need to be undertaken to extend this for domestic use. Further information, such as LFD negative test status, will be added in a future release of the App. In the meantime, customers can display an SMS (text) or email which records they have received a negative test. There is no QR code within SMS or emails and so they do not need to be scanned by the NHS Scotland Covid Check App. Venues will instead perform a visual check and no data will be retained. Individuals can get an SMS or email by registering the result of their LFD test on the GOV.UK website [here](#).

The testing option requires people to have access to a standard mobile phone. This does not need to be a 'smart phone' and any mobile phone that can receive text messages or has access to email is sufficient. Test results can be displayed on a mobile phone, tablet or other device, or a paper copy can be printed. In Scotland, it is estimated that 88% of households had internet access in 2019, however this varied by household net income and deprivation. The proportion of internet users reporting that they access the internet using a smartphone increased from 81 per cent in 2018 to 86 per cent in 2019<sup>20</sup>.

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<sup>20</sup> [Scottish household survey 2019: annual report - gov.scot \(www.gov.scot\)](#)

## Exemptions

There are medical exemptions for domestic Certification for the very limited number of people who can neither be safely vaccinated or tested. In the vast majority of cases, a successful route to safe vaccination or testing can be found. Local vaccination centres can help to answer questions about the vaccine and can advise what arrangements may be put in place to enable safe vaccination. In the rare cases where that support does not lead to vaccination, an exemption is offered to the individual which can be used for international use only. If the individual cannot be tested either, they will be advised to obtain proof of evidence from their primary or secondary care clinician in the form of a letter. This evidence will then be assessed by a Scottish Government clinician who will work with the Resolver Group to provide the necessary support on a case-by-case basis to determine whether the individual is also exempt from testing.

For more information on exemptions see the NHS Inform website [here](#), call the Covid-19 Status Helpline or visit your local vaccination centre. Medically exempt individuals are provided with paper Certificates which have enhanced security features. Medical exemptions cannot be displayed on the international section of the App due to EU specifications. They are under consideration for a future release of the domestic section of the App. We continue to engage across the four nations to ensure that work around exemptions is taken forward collectively. All clinical trial participants have received a letter from their Principal Investigator which can be used for proof of their trial status. Clinical trials participants are encouraged to undertake testing and provide a record of a negative test, as they may have received a placebo dose.

While children are exempt from the requirement to prove vaccine status for domestic purposes, 12- 17 year olds who have been vaccinated may choose to download a PDF via NHS Inform, or they may choose to request a paper Certificate by calling the Covid-19 Status Helpline.

The paper Certificates are in English. Information about what information the Certificates contain can be requested in other languages and alternative formats including Easy Read, audio and Braille. Information can be found on NHS Inform [here](#), or when people request their Certificate.

For more information on the Covid Status Certificate see the Scottish Government website [here](#).

## **Consultation**

We have not undertaken any public consultation on these measures. However, Scottish Government Ministers and officials have continued to engage with a wide range of sector representatives, to date at 6 roundtables and over 20 sectors and stakeholders ([Annex A](#)) from a range of specialisms, including events, music, sport, hospitality, cinema, theatre, music, museum, rural and the night-time economy, as well as business organisations, trade unions and the legal profession. They have represented the views of businesses; their diverse feedback has been considered and has informed this impact assessment.

Through this engagement a number of key themes emerged.

### Appetite for expansion of Certification to include a negative LFD Result

Generally business opinion remains negative, both about the scheme in principle and how it has been introduced and communicated. However, related unions remain supportive and are keen for the scheme to be in operation in their workplaces and their members want to be safe at work and see this measure as one way for that to happen. The option to have a record of a negative LFD as an alternative method to access venues was welcomed by a number of key sectors including Hospitality, Night Time and Major Events industries. One stakeholder pointed out that the major obstacle at the moment was dealing with customers who were being refused entry. Adding the option of a record of a negative LFD to the current scheme would mean that venues could provide an alternative to simply refusing entry outright and reduce the potential for anti-social behaviour that could be experienced by staff working in affected premises, as well as potentially helping to provide access to venues to a greater number of clients, increasing revenues and reducing concerns with inequalities.

The hospitality sector and others however noted that if individuals were required to present a record of a negative LFD *and* a Domestic Covid Vaccination Certificate to gain entry to venues this would have a significant and disastrous impact of their sectors over a critically important period of trading.

Without a successful Festive period, some sectors stated that many businesses will struggle and ultimately may not survive into 2022. This point was also made by a theatre group who noted that 35% of their annual income was generated in December alone.

Hospitality trade bodies have consistently provided reports of members experiencing reduced footfall and takings. Hospitality stakeholders have advised of members experiencing footfall reductions of 20%-40%; falls in revenue of around 40% in affected venues<sup>21</sup>, while a joint hospitality industry survey suggested that 87% of respondents that had been affected by certification saw trade levels fall by over 20%<sup>22</sup>. For example the Scottish Beer and Pub Association have indicated that businesses within the sector have been seeing up to a 40% drop in trade since the introduction of Covid passports; not just 40% down on normal times.

During stakeholder engagement roundtables a number of organisations noted their support for the introduction of a negative LFD as an alternative method of Certification. For instance, the Night Time Industries Association noted that they were supportive of the use of a negative LFD and also noted that they felt that this would address the significant issues of discrimination and equality associated with only a vaccination certification scheme; bodies like the Scottish Beer and Pub Association and the Scottish Chambers of Commerce have also expressed support for use of LFDs.

Voluntary checking of LFDs has already been used in some settings including the theatre and at the TRANSMT 2021 music festival in Glasgow in September 2021 where over 45,000 fans attending each day and used and were required to produce evidence of a negative LFDs to gain entry. Many stakeholders have seen the use of LFD tests for COP26 attendance and have suggested this as evidence to support their inclusion in the scheme.

<sup>21</sup> [Coronavirus \(COVID-19\) vaccine certification: evidence paper update \(www.gov.scot\)](https://www.gov.scot/publications/coronavirus-vaccine-certification-evidence-paper-update/pages/40.aspx), page 40

<sup>22</sup> Source: joint NTIA, SBPA, SHG, SLTA, UKH survey – results shared with SG in w/b 15/11; shared with Covid-19 committee in evidence pack for meeting of 18/11/21.

At the most recent engagement with the Hospitality sector stakeholders continued to welcome the addition of testing but noted that there was still ongoing economic impact from the pandemic affecting footfall including through certification impacts. They noted including LFDs would help but suggested that experience from Wales could indicate that these may not fully offset these impacts. To help with this they would expect clear communication the public on expectations of them to allow for more spontaneous visits to night time venues i.e. ensuring clear comms that people should test before they go out.

Some businesses may still choose to take themselves outwith the scope of the scheme to avoid the requirement to undertake domestic vaccine certification however the introduction of the alternative of providing evidence of a negative LFD may mitigate this possibility.

#### Direct Costs to ensure compliance and enforcement

There are continuing concerns about having enough staff to implement the current scheme, given that the affected sectors are already facing a shortage of qualified stewards and front of house staff in general, as well as concerns for staff safety from both Covid and potentially dissatisfied customers/public order issues. Discussion with Securities Industries Authority (SIA) have noted however that there is a historically high level of licenced staff presently in UK but a significant number of these are currently working in other sectors. Licenced premises do not need to use SIA licenced members of staff to conduct checks of proof of vaccine status or record of test results or to refuse entry or service to customers who do not meet certification requirements.

However this does not remove the need for SIA staff from venues which already require them as part of their licence or insurance conditions. Also premises will want to carry out appropriate risk assessments to determine whether SIA staff are required in their circumstances.

The ATG Theatre Group noted that they currently administer a voluntary certification and testing regime at their 3 Scottish venues and accept Certification or evidence of a negative LFD for admission. At the Playhouse in Edinburgh providing this support costs around £700 per show in regards extra staff to check certification and cost of supplying LFDs to those who test at the venue prior to admission.

Costs were a concern mentioned by many: costs of new scanners, as stakeholders consider that it would not be appropriate for staff to use personal phones to scan QR codes; additional staffing costs; and other infrastructure. Upon providing stakeholders with further information about the technical infrastructure, the cost infrastructure concern reduced, but the staffing issue remained live.

Businesses are also concerned about the potential increase in the cost of their insurance, if they are unable to staff doors with qualified door staff, which for some may be a condition of their insurance cover. The hospitality industry reported that it can take up to 3 months to complete all training and checks for newly trained and accredited door staff, SIA have confirmed the number of SIA trained staff has increased.

### Complexity, Justification and Communication of the policy

There remains concerns about the time to properly enforce the scheme, acquire the right equipment, and train staff to fully implement.

There is generally a strong desire for more information about how exactly the amendment to the scheme would work on the ground, and the need for clear guidance for all businesses impacted on how to deliver the certification scheme successfully. Stakeholders are strongly requesting a clear communications and marketing programme to ensure that all businesses and the public have a clear understanding how the scheme will be implemented and enforced with the addition of a negative test (LFD and PCR).

### Legal Processes and equality issues

The night-time sector has raised concerns that they may face legal challenge on equality grounds from any customers who they are required to refuse entry, Scottish Government is not aware of any challenges to date, however, the introduction of LFDs could be seen as a way to mitigate many of the equality issues given the wide availability and access to free LFD tests across Scotland.

Following the FM announcement to include LFD testing the following were released:

### **Scottish Chambers of Commerce (SCoC) – 23 November 2021**

#### **Dr Liz Cameron, Chief Executive of the Scottish Chambers of Commerce**

“Businesses across Scotland will be incredibly relieved that the First Minister has listened to the concerns of the business community.

“Although this will have been a difficult decision on balance for the Scottish Government, it was the right one, and it keeps Scotland moving in the right direction. It is now essential that businesses and individuals continue to follow the relevant COVID-19 restrictions and guidelines to ensure our economy remains open and growing.

“Businesses and consumers will now be reassured that they can make plans over the coming weeks in the run up to Christmas and New Year, without the fear of additional economic deterrents or vaccine certification burdens being placed on them.

“Scotland’s businesses continue to do everything they can to support public health measures and to limit the spread of the virus, having invested millions into making workplaces Covid secure for employees, customer, suppliers and communities.”

#### **On Lateral Flow Tests:**

“We are pleased that the Scottish Government have looked again at the available evidence and have acknowledged the clear benefits that LFD’s provide.

“This is what businesses were calling for and it will also significantly ease and improve access to hospitality settings for consumers.

“Scotland was one of the few countries in Europe, where a vaccine certification scheme is in place, to not accept evidence of a recent negative Lateral Flow Test (LFD) in lieu of an individual’s Covid vaccination status and confirmation that this will change from next month will be very welcome news for businesses, employees and customers.”

### **Federation of Small Business (FSB) – 23 November 2021**

#### **FSB on vaccine passport Covid decision:**

Andrew McRae, the Federation of Small Businesses (FSB) Scotland policy chair, said: “It’s a relief that Ministers have taken on board the evidence from the FSB and others. Extending the vaccine passport scheme would have meant many local and independent Scottish hospitality and leisure firms making big changes to how they operate during a key trading period. These businesses will now have a weight off their shoulders.

“Feedback from our members showed that small cafés, restaurants and similar operators were worried that the extension would have put pressure on staff and driven up costs. It would have undermined many of these firms’ plans for the festive period, many of whom are amongst the businesses hardest hit by this crisis.

“We agree with the First Minister that citizens, government and businesses of all sizes have a role in keeping this virus under control. That’s why we’d urge all smaller firms to look again at the current Covid rules and ask themselves if they’re doing everything in their power to play their part.”

### **Confederation British Industry (CBI)**

#### **Tracy Black, CBI Scotland Director, said:**

“Businesses still working hard to get back on their feet will welcome the Scottish Government’s decision not to expand Covid certification. Many firms would have faced practical challenges and increased costs to implement measures at a time when bumper trading is needed to clawback lost or diminished revenues.

“Today’s decision strikes the right balance between managing the virus and protecting our economic recovery.

“However, we cannot afford to lose sight of the fact that COVID-19 remains a threat. That means redoubling our efforts on mass rapid testing, maximising world-leading vaccine uptake, and continuing to deliver Covid-secure workplaces to keep staff and customers safe, and the economy open.”

### **The Scottish Tourism Alliance (STA)**

#### **Marc Crothall, Chief Executive of the Scottish Tourism Alliance said:**

“The Scottish Tourism Alliance welcomes the First Minister’s announcement that vaccine passports will not be extended to the hospitality sector and that alternative measures can be used within businesses already implementing the scheme.

Our organisation has, since the outbreak of the pandemic, been in full support of evidence-based measures to balance the protection of public health and the economy, the proposal to extend vaccine certification to hospitality was in our view harmful to the sector, the wider tourism economy across all areas of Scotland and would have effectively stalled what is already a long and challenging road to recovery for one of the worst hit industries.

The next few weeks are crucially important to the sector in terms of recouping lost earnings as a result of the introduction of previous restrictions; I am sure that many businesses will feel a sense of overwhelming relief that they will be able to trade as planned.

The STA and other trade bodies and business groups had been consulted in the proposals to extend the vaccination certification scheme and I am delighted that the collective views and evidence we have presented have been given the thorough and due consideration we expected.

The feeling of optimism across our tourism and hospitality sectors was significantly eroded following the First Minister’s announcement last week with businesses looking towards weeks and months of immense challenge and uncertainty.

We can now hopefully look forward to a thriving season ahead, one which is pivotal to our economic recovery and I know that all businesses within our sector will be doing their utmost to ensure public safety and limit the spread of the virus to ensure a safe and buoyant festive period

The STA will encourage our members and the wider industry to promote testing to their customers in a supportive, positive manner and we look forward to our continued conversations with both governments as we navigate the road ahead back to recovery.”

### **Scottish Hospitality Group – 23 November 2021**

The Scottish vaccine passport scheme will not be extended, at least for the time being, the First Minister revealed yesterday. The news came after weeks of lobbying by all Scotland’s trade bodies.

In further good news, the First Minister also said that venues such as night clubs and late-night venues, who currently require a vaccine passport, from December 6th, can ask customers to show a negative lateral flow test instead. Although the NTIA is still campaigning to have the need for Vaccine passports in late night venues to be removed completely.

After the announcement Stephen Montgomery of the Scottish Hospitality Group said, “The announcement is very welcome news and gives the trade some stability coming into the Christmas period and allows customers to come out and enjoy themselves. It is a sensible decision based on the evidence

“We have said all along that working in partnership with us makes for a better result.



“I would like to thank the First Minister, Ivan McKee, Jason Leitch, and officials, for listening to our issues and for meeting us. We now look forward to working with them to further iron out the issues that the current vaccination scheme still has.”

The Night Time Industries Association Scotland's said, “Whilst NTIA Scotland remain opposed to the continued application of vaccine passports in late night settings, we are encouraged by Scottish Government’s decision today that the scheme will not be rolled out further at this time. This is a sensible and pragmatic decision which takes into account the extraordinary harm businesses have suffered as a result of restrictions over the last 2 years, the lack of evidence that this scheme has any meaningful impact on vaccine uptake, concerns around human rights, and also recognises that the current trajectory of infections and hospitalisations is falling.

“Vaccine passports have however been devastating to businesses already affected, with turnover down around 40%, so we now call on Scottish Government to urgently review whether continued application of the scheme is either necessary or proportionate and provide urgent financial grant support to those businesses that remain in scope of the scheme.

“It is a positive step in the right direction that Lateral Flow Tests will now be included as an alternative to double vaccination, which will safeguard late night venues in particular, and is something the trade body has advocated for from the inception of this scheme.

“This brings Scotland in line with other European nations, and partially alleviates at least some of the equalities and social exclusion harms that were previously the case. However, the experience in Wales indicates that affected businesses, even with LFT inclusion, have still suffered a 26% decrease in trade.

Our sector are working positively and constructively with government to increase public awareness and maximise Covid safety during the vital Christmas trading season.”

### Background

On the 1 October the Scottish Government introduced the Covid Vaccine Certification Scheme. The requirement for persons responsible for late night premises or a relevant event to ensure a reasonable system is in operation for checking Certification came into force on the 18 October 2021.

The Scheme was introduced in line with our strategic intent to 'suppress the virus to a level consistent with alleviating its harms while we recover and rebuild for a better future' and the policy objectives were to:

- reduce the risk of transmission of Coronavirus
- reduce the risk of serious illness and death thereby alleviating current and future pressure on the National Health Service
- allow higher risk settings to continue to operate as an alternative to closure or more restrictive measures
- increase vaccine uptake

On the 4 November, in response to a question asked by the Covid-19 Recovery Committee, the Deputy First Minister stated that 'Vaccination Certification could be extended to other sectors'.

In a statement to Parliament on 9 November the Deputy First Minister stated that Ministers had been ‘considering [...] whether we may need to extend the Covid Certification scheme to bring more settings into scope, such as indoor hospitality and leisure settings.’

On 16 November, in a statement to Parliament, the First Minister stated that:

“we will be assessing in the coming days whether, on the basis of current and projected vaccination uptake rates, [whether] we are now in a position to amend the scheme so that in addition to showing evidence of vaccination to access a venue, there will also be the option of providing evidence of a recent negative test result. [...]

We are also considering whether an expansion of the scheme to cover more settings would be justified and prudent given the current state of the pandemic.”

On the 19 November the Scottish Government published a follow up Evidence Paper which sets out the evidence published on Certification since the original Evidence Paper (published here) surrounding Certification, including information on vaccination and testing. This can be on the Scottish Government website here.

On the 23 November the First Minister gave an update to Parliament on the state of the pandemic and provided information on the expansion of the Certification scheme:

‘Firstly, for at least a further three week period, we will retain vaccine certification for the venues and events currently covered by the scheme - that is late night licensed premises with a designated area for dancing; unseated indoor events of 500 people or more; unseated outdoor events of 4,000 people or more; and any event with 10,000 people or more.

Given the current state of the pandemic, it is our judgement that it would not be appropriate at this stage to remove this protection against transmission.

Secondly, however, we have decided that from 6 December it will be possible to access venues or events covered by the scheme by showing either proof of vaccination, as now, or a record of recent negative lateral flow or PCR test result taken within the last 24 hours.’

### Options Considered

#### **Option 1: Retain mandatory vaccine Certification in higher risk settings (current policy)**

As outlined above this option would feature:

- Certification for access to specified settings required for entry
- Mandated in regulations
- Public use of paper vaccine certification or digital NHS Scotland Covid App NHS
- Event/venue use of Verifier App – NHS Scotland Covid Check app to verify QR code
- Implementation supported through Scottish Government Guidance
- The policy will be subject to three-weekly reviews.

### Sectors and Groups Affected

These Regulations will affect:

- Late night venues with music alcohol and dancing;
- Indoor cultural performance venues associated with live events, particularly larger venues that stage unseated performances;
- Outdoor venues associated with large cultural or sporting gatherings, such as larger sports stadia and race courses;
- Conference centres, in instances where staging large scale seated or unseated live events, trade fairs open to the public, markets or exhibitions;
- Businesses involved in the organization and staging of live events, such as performers, event promoters, staging and production businesses, associated supply chain businesses;
- Business events that entail a 'peripheral' reception or function outside of the core hours of the event, which would not be excepted should they meet the criteria for certification. Business event professionals note that the majority of high value business events in Scotland encompass receptions that would be in scope (500+);
- Ancillary businesses dependent on live events (e.g. food and drink sales, merchandising);
- Prospective attendees at live events;
- Local Authorities, as they would be required to undertake monitoring and enforcement activities arising from regulations.

Scottish Ministers will also continue to assess whether any less intrusive alternative measures could be introduced to achieve the same combination of policy objectives in respect of the higher risk sectors concerned. The current default position would be that the certification provisions, along with the rest of the Principal Regulations would be due to expire on 28 February 2022.

**Option 2: Retain mandatory vaccine Certification in higher risk settings (current policy) and amend Certification to include a record of a negative test (LFD or PCR result) as an alternative to proof of vaccination**

Option 2 would feature:

- Certification for access to specified settings required for entry either certificate of vaccine or record of a negative test (LFD or PCR within specified time frame of 24 hours)
- Mandated in regulations
- Public use of paper vaccine certification or digital NHS Scotland Covid App or demonstration of a negative LFD or PCR result as reported to the public reporting system
- Event/venue use of Verifier App – NHS Scotland Covid Check app to verify QR code for vaccine certification
- Implementation and compliance supported through Scottish Government Guidance

Sectors and Groups Affected

These Regulations will affect:

- Late night venues with music alcohol and dancing;
- Certain indoor cultural performance venues associated with live events, particularly larger venues that stage unseated performances;

- Certain outdoor venues associated with large cultural or sporting gatherings, such as larger sports stadia and race courses;
- Conference centres, in instances where staging large scale seated or unseated live events, trade fairs open to the public, markets or exhibitions;
- Businesses involved in the organization and staging of live events, such as performers, event promoters, staging and production businesses, associated supply chain businesses;
- Business events that entail a 'peripheral' reception or function outside of the core hours of the event, which would not be excepted should they meet the criteria for certification. Business event professionals note that the majority of high value business events in Scotland encompass receptions that would be in scope (500+);
- Ancillary businesses dependent on live events (e.g. food and drink sales, merchandising);
- Prospective attendees at live events;
- Local Authorities, as they would be required to undertake monitoring and enforcement activities arising from regulations;
- Royal Mail postal services in connection to the distribution of postal test kits.

### Assessment of Options

This BRIA has set out the relative costs and benefits of options with the intended effect of suppressing the virus whilst acknowledging and minimising the economic harms faced by businesses.

#### **Option 1: Retain mandatory vaccine Certification in higher risk settings (current policy)**

##### *Costs*

Under this option, those without vaccine status would continue to be unable to gain entry to late night venues with music, alcohol and dancing, or specified indoor and outdoor live events. Costs from this option will potentially arise from: additional direct costs incurred by affected businesses to ensure compliance with the Regulations; reductions in footfall and attendance at venues and events covered by the Regulations; and cancellation of events and refunds to customers; associated cash-flow impacts.

##### *Implementation Costs*

The previous BRIA and the Scottish Government's Evidence Papers<sup>23</sup> described a range of potential cost impacts on businesses associated with implementation and delivery of certification. Examples of these costs included:

- Additional resource for recruiting or training staff to check certification.

<sup>23</sup> The BRIA for certification regulations introduced in October 2021 is available at: [Coronavirus \(COVID-19\) domestic vaccine certification: business and regulatory impact assessment - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/evidence-papers/2021/09/coronavirus-vaccine-certification-business-and-regulatory-impact-assessment/). The Evidence Paper published in September 2021 is available at: [Coronavirus \(COVID-19\) vaccine certification: evidence paper - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/evidence-papers/2021/09/coronavirus-vaccine-certification-evidence-paper/). The Evidence Paper published in November 2021 is available at: [Coronavirus \(COVID-19\) vaccine certification: evidence paper update - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/evidence-papers/2021/11/coronavirus-covid-19-vaccine-certification-evidence-paper-update/).

- Dedicated hardware to scan or read certification (mobiles/tablets) and/or install technology to check QR codes at automatic entry barriers.
- Cancellation of tickets and refunds
- Additional policing costs arising if there are scenes of disorder at sports stadia due to long queues caused by certification checks.
- For business events, additional complexity of exempting one element of the programme (e.g. standing receptions), with associated cost and reputational risk of denying delegates who are attending this and all other elements in a work capacity. Business event professionals have shared that the majority of high value business events in Scotland encompass receptions that would be in scope (500+).
- Costs to Local Authorities of monitoring and enforcing certification

While some of these items of cost, particularly related to technology, could be described as one-off implementation costs that businesses would face and may have already incurred, those associated with recruitment, training and payment of staff, and LA enforcement costs, would potentially be ongoing direct costs associated with implementation and compliance.

The NHS Scotland Covid App will continue to be provided for free, the accompanying [Guidance](#) on how to implement within businesses now being live on the Scottish Government website.

The extent of ongoing costs borne by businesses affected by certification will likely vary across businesses, depending on the scope to integrate them into existing staff functions, use existing IT infrastructure, or physical infrastructure. These costs may be higher for businesses that have not delivered a similar function historically, such as venues that do not charge for entry and have previously not had a need for door staff but may now require some to check vaccination status at the point of entry.

Staff costs represent a large component of the overall running costs of businesses in some of these sectors. For example, in the Accommodation and Food Services sector overall, labour costs are estimated to account for 42% of total costs at a sectoral level, compared to 25% across all sectors, while in Arts, Culture and Entertainment sector labour costs are estimated account for around 18% of total costs.<sup>24</sup>

Impacts on staff costs would likely vary across businesses depending on several factors, particularly whether the Regulations' requirements are accommodated within existing staff responsibilities or require additional staff. If additional staff is required, costs would be influenced by factors such as numbers of staff required, and number of hours required each week. Hourly and weekly gross wage costs for occupational groups that would be affected by the regulations are set out in Table 2 below. It should be noted that these statistics do not include non-wage labour costs, such as Employers' NIC and pension contributions:

	Mean Gross Hourly Pay, £			Mean Gross Weekly Pay, £		
	All	Part-Time	Full-Time	All	Part-Time	Full-Time
Security Guards & Related	£11.09	£12.50	£10.91	£409.30	£216.20	£467.60

<sup>24</sup> Scottish Annual Business Survey, Scottish Annual Business Statistics (SABS) 2018, [Scottish Annual Business Statistics 2018 - gov.scot \(www.gov.scot\)](#). Note that SABS excludes financial sector & parts of agriculture and the public sector.

Occupations (SOC 9231)						
Bar Staff (SOC 9265)	£8.37	£8.38	£8.36	£151.90	£123.30	£303.40

Table 1. Gross Mean Hourly and Weekly Pay, Selected Occupations, 2019. Source: ONS, Annual Survey of Hours and Earnings 2019, Tables 15.1a, 15.5a

It is noted that there is a widely reported difficulty in securing sufficient numbers of stewarding and hospitality staff at present, due to labour shortages. For instance, in the period 18-31 October 2021, 61.2% of businesses in the Accommodation and Food Services Sector reported that vacancies were more difficult to fill compared to normal expectations for the time of year, and 52.7% reported having a worker shortage<sup>25</sup>. Hospitality stakeholder organisations have consistently highlighted challenges in the availability of SIA-accredited door staff. There is also evidence of continued strong growth in vacancies in areas like hospitality<sup>26</sup>. These could create challenges for affected businesses across affected sectors in recruitment of numbers of staff required as a result of regulations.

Feedback from Event Sector member organisations to Scottish Government officials has indicated that those affected may have experienced additional costs associated with implementation. Feedback from one theatre group has indicated that additional staffing costs associated with implementing certification have been of the order of £6,600 per week at a specific larger venue<sup>27</sup>. Sports sector stakeholders have reported that additional stewarding has been necessary to implement certification as currently designed<sup>28</sup>.

The magnitude of these costs in coming months will be closely linked to the level of enforcement expected from businesses, the type and footprint of venues, and flow of customers at venues and events. Current certification arrangements have varied across settings with guidance taking account of the differences between a venue where there are a smaller number of people queuing to enter the premises compared to a large event such as a sporting event with multiple entrances and larger crowd control required: for instance, late night venues have been required to operate a 100% check on entry, given the option for a visual check. For large events, spot check arrangements have been in place.

This option may have further financial impacts on events which run over a prolonged period of time such as trade fairs and exhibitions which often run over a number of days. The combination of extended event times and changeover in attendees may require additional staffing capacity to allow for certification checks, in addition to standard ticket checks.

For business events there is additional complexity of exempting one element of the programme (e.g. standing evening receptions), with associated cost and reputational risk of denying delegates who are attending this and all other elements in a work capacity. Business event professionals have shared that the majority of high value business events in Scotland encompass receptions that would be in scope (500+).

There have also been reported incidences reported of individual premises changing their offerings and business models (such as through reducing opening hours or converting their

<sup>25</sup> [BICS weighted Scotland estimates: data to wave 43 - gov.scot \(www.gov.scot\)](https://www.gov.scot/data/bics-weighted-scotland-estimates-data-to-wave-43)

<sup>26</sup> [Coronavirus \(COVID-19\) vaccine certification: evidence paper update \(www.gov.scot\)](https://www.gov.scot/data/coronavirus-covid-19-vaccine-certification-evidence-paper-update). Page 47.

<sup>27</sup> Source: feedback to officials from Ambassadors Theatre Group, November 2021

<sup>28</sup> [Coronavirus \(COVID-19\) vaccine certification: evidence paper update \(www.gov.scot\)](https://www.gov.scot/data/coronavirus-covid-19-vaccine-certification-evidence-paper-update). Page 40.

premises) to avoid falling within the requirements of certification<sup>29</sup>. These may have resulted in costs to individual businesses arising from decisions around implementation of certification.

### *Anti-Social Behaviour*

Stakeholder representative groups have also consistently highlighted the risk of increased anti-social behaviour, should customers be refused entry on grounds of not having appropriate certification. Hospitality and Event industry stakeholder groups have provided anecdotal feedback of increased aggression towards security staff and stewards in some contexts, while almost 80% of respondents to a hospitality industry stakeholder group survey indicated they or their staff had received physical or verbal abuse as a result of enforcing Covid regulations<sup>30</sup>. This could impact on recruitment and retention of staff, and importantly, on staff wellbeing.

### *Local Authority Enforcement Costs*

As outlined in the original BRIA there are costs associated with Option 1 in relation to enforcement. The Local Authority Covid-19 Expert Officer Group estimated the costs to Local Authority Regulatory service at £225,000, based on the assumption that there are 2,000 businesses and 500 events in scope in the initial 6 months from Oct 1. Scottish Government have committed to monitoring and evaluating the impact of the scheme on local authority resources and have allocated funding of £2.9 million to local authorities to year end to support with Covid compliance activity. The premises in scope have not been expanded therefore there is no additional types of premises where LAs would have a role in enforcement.

### *Loss of revenue through reductions in footfall and attendance*

Businesses subject to Certification may experience a reduction in customer footfall and attendance, as those without proof of vaccination would be refused entry. Customers may view Certification as a barrier, especially if groups socializing together are divided into certified and non-certified. This could lead to a reluctance to visit venues and attend events where Certification is needed, opting to visit venues and events which do not require it. Those affected may also choose to stay at home or go out earlier in the evenings to avoid certification. The anticipation of delays in entry and experience of the customers entering venues and events where Certification is required may influence choice, opting for less onerous options. Taken together, these may result in loss of direct footfall for some businesses. Loss of trade and revenue for participating venues could heighten pressures on individual businesses' viability.

The previous BRIA and the Scottish Government's Evidence Papers described the potential for impacts on footfall and revenues for businesses affected by certification. It is challenging to directly identify the impact of certification on losses of footfall and turnover experienced by individual businesses, owing to the relatively short space of time that certification has been in place, and potential impacts from other contributory factors. However, emerging reports from stakeholder organisations in the hospitality sector have consistently suggested that nightclubs and late night settings affected by certification have experienced substantial reductions in footfall and revenues since introduction of certification. Trade bodies have consistently provided reports of members experiencing reduced footfall and takings. Hospitality

<sup>29</sup> For instance: [Edinburgh nightclub scraps Covid vaccine passports amid huge decline in footfall - Edinburgh Live](#)

<sup>30</sup> [Coronavirus \(COVID-19\) vaccine certification: evidence paper update \(www.gov.scot\)](#), pages 39-40; Source: joint NTIA, SBPA, SHG, SLTA, UKH survey – results shared with SG in w/b 15/11.



stakeholders have advised of members experiencing footfall reductions of 20%-40%; falls in revenue of around 40% in affected venues<sup>31</sup>, while a joint hospitality industry survey suggested that 87% of respondents that had been affected by certification saw trade levels fall by over 20%<sup>32</sup>.

Events sector stakeholders have also provided anecdotal evidence of business impacts. Individual events organisers have advised of larger drop-offs in actual attendance compared with ticket sales than would typically be expected<sup>33</sup>.

Footfall in the settings that currently fall within certification requirements is potentially substantial. YouGov polling for 2-4 November<sup>34</sup> suggests 5% of those polled had been in a nightclub or late night venue in the previous week, while 10% had been to any sort of venue/event eligible for certification (a nightclub or late night venue or large event). Generally levels for each of these are higher among 18-29 year olds than other. Pre-pandemic, there was also evidence to suggest that larger portions of 16 to 24 year olds, 25 to 34 year olds, and 35 to 44 year olds had attended live music events in the previous year than the share of the population overall<sup>35</sup>.

Footfall could be impacted in the following ways:

- Those without certification would be refused entry (which in turn depends on numbers vaccinated)
- Others may be reluctant to attend if non-certificated friends were unable to attend
- Entry delays could deter customers if onerous.

The extent of economic harm would arise from the numbers of unvaccinated people within the population overall, and those who are not fully vaccinated in the previous fortnight to expansion at the point at which certification requirements would come into effect. If people within this group were unable to enter settings, this would represent a loss to the potential customer base to affected businesses and sectors, and therefore a source of economic harm. The depth and duration of economic harm would depend on the speed with which people became vaccinated and eligible for certification, and the availability of alternatives to vaccine certification, such as a negative test result.

Under the current requirement for a minimum of 2 weeks between individuals receiving their second dose of vaccine and being eligible for certification, vaccine uptake data<sup>36</sup> suggests that:

- Around 88.3% of the overall population aged 18+ had received two doses of vaccine by 24 November, and would therefore be eligible to access certification by 8<sup>th</sup> December.

<sup>31</sup> [Coronavirus \(COVID-19\) vaccine certification: evidence paper update \(www.gov.scot\)](#), page 40

<sup>32</sup> Source: joint NTIA, SBPA, SHG, SLTA, UKH survey – results shared with SG in w/b 15/11; shared with Covid-19 committee in evidence pack for meeting of 18/11/21: [Microsoft Word - NTIA SLTA Evidence .docx \(parliament.scot\)](#)

<sup>33</sup> [Coronavirus \(COVID-19\) vaccine certification: evidence paper update \(www.gov.scot\)](#), page 40

<sup>34</sup> [Coronavirus \(COVID-19\) vaccine certification: evidence paper update \(www.gov.scot\)](#), pages 47-48. Opinion polling is carried out by YouGov for the Scottish Government: conducted fortnightly with a sample of c.1000 adults 18+ across Scotland – demographically and geographically representative of the online population; fieldwork conducted mainly Tuesday/Wednesday on the dates shown with a small number of interviews on the Thursday morning.

<sup>35</sup> [Scottish household survey 2019: culture and heritage - report - gov.scot \(www.gov.scot\)](#), Table 3.3.

<sup>36</sup> [COVID-19 Daily Dashboard | Tableau Public](#). Data accessed 26 November, covering 24 November.

- Among younger age groups, this proportion fell to 69.5% of those aged 18-29, and 77.9% of those aged 30-39, and 87.9% of those aged 40-49.

Should those currently unable to access certification be unable to access premises that require it, this could generate reductions in footfall and turnover for affected premises.

In addition, industry stakeholders have highlighted that there may be negative impacts arising from groups of customers choosing to avoid venues where certification is required in response to some of their members not having appropriate vaccination certification. There may also be impacts on footfall at individual venues should the process of checking certification add to the time taken to enter venues.

However, there may also be improved footfall and associated revenues from increased perception of venues requiring certification as being of lower risk than alternatives. YouGov polling data for Scotland in late September suggests that, while a certification scheme would make one in three (30%) of those who would potentially visit venues covered by certification more likely to visit a venue or event that requires it, just under one in five (18%) say that it would make them less likely to do so<sup>37</sup>. From the 19-21 October (Week 83), these figures reduced to 29% saying the scheme would make them more likely to visit and venue or event, 20% as less likely to attend.<sup>38</sup>

#### *Loss of revenue through cancellation of events and customer requested refunds*

Live events businesses, including concerts and trade fairs open to the public, may also experience additional impacts under this option if unvaccinated customers who had bought tickets for events before the commencement of this option are subsequently unable to attend. This may generate demand for refunds or transferability of tickets leading to additional cash-flow pressures for event organisers who may not be protected in Terms and Conditions, as it was not a stated condition of entry. To date there has been no funding from Scottish Government to support any events to cover the cost of cancellations as a result of the Certification scheme being introduced

Customer cancellation costs may partly come from overseas visitors who have difficulties proving their vaccination status. The Verifier app for business has been developed to be able to read QR codes from the other UK nations and Crown dependencies, as well as from any individual using the EU Digital Covid Certificate scheme, which Scotland is now part of. Visitors from other nations, such as USA, can provide the same proof of vaccination status that is accepted for entry into the UK. There is significant variation across the globe on what vaccine certifications/proof of vaccination look like and how they work – and not all will be acceptable if they are not to a certain standard. For domestic certification purposes, only MHRA-authorized vaccine are acceptable and this does not include the WHO list vaccines (including the Chinese vaccines Sinopharm and Sinovac and the Indian vaccine Covaxin). However, there is still a

<sup>37</sup> Scottish Government (2021). [Coronavirus Fortnightly Tracker Weeks 66-79 – Data Tables from 29 June to 23 September 2021](#) (Question SG\_4708\_rb on 21-23 September). These figures exclude those who answered: 'Not applicable - would never visit such a venue/attend such an event anyway (23%)'.

<sup>38</sup> Scottish Government (2021). [Coronavirus Fortnightly Tracker Weeks 80-83 – Data Tables: October 2021](#) Question SG\_4707\_rb on 19-21 October, These figures exclude those who answered: 'Neither support nor oppose (13%)'. Question SG\_4708 on 19-21 October, These figures exclude those who answered: 'Not applicable - would never visit such a venue/attend such an event anyway (24%)'.

risk of lost business at larger events that have a significant international audience beyond the EU. For example, Edinburgh's Hogmanay in 2019 had visitors from 58 different countries.

If live events businesses are unable to ensure that their show is financially secure in advance - through guaranteed ticket sales - they may cancel events. Equally, if ticket sales are at risk, there could be a subsequent impact on the ability of event organisers to secure exhibitors, performers and sponsors – a major source of revenue – and similarly may cancel events due to a lack of viability. Cancellation of events may also arise if the direct costs of ensuring compliance, such as additional stewarding, threaten the viability of the event. Cancellation of events would impact on a number of sectors, including the tourism industry.

Events sector stakeholders have also provided anecdotal evidence of business impacts<sup>39</sup>. Individual events organisers have advised of larger drop-offs in actual attendance compared with ticket sales than would typically be expected. Individual events have also provided anecdotal evidence of small numbers of individuals being refused entry to specific events as a result of certification, and of refunds being requested, but with these potentially having varied by event type. There have also been examples where certification has been mentioned as a factor in organisation of specific events: certification is in operation in Edinburgh's Hogmanay, which will be operating at reduced capacity; while certification requirements, specifically the additional queueing time, were cited as one of the reasons for Glasgow cancelling the George Square Lights 'switch on' and Christmas market<sup>40</sup>.

### *Benefits*

This option could result in some public health benefit and would reduce the risk of infection and transmission of the virus and subsequent hospitalisations and pressure on the NHS. SAGE said that one approach to reducing the risk of non-isolated cases entering high risk settings is a COVID certification scheme - based on negative testing, vaccination, or record of a prior infection. SAGE considered with a medium confidence that a certification scheme could have medium effectiveness.<sup>41</sup> The public health impact has grown as the percentage of certification checks has been increased, recognising that operators may have needed to take a graduated approach to building up the percentage of checks. As the frequency of checks rose, with both customers and businesses getting used to the scheme, the robustness of the scheme from a public health perspective increases.

Reducing transmission would benefit business as it would reduce the likelihood of implementing more onerous restrictions or closing sectors completely.

There may also be additional benefits to affected venues and businesses should this option result in a competitive advantage for settings in scope, as they would be perceived as 'less risky' environments. This may provide reassurance to previously reluctant or risk-averse customers and encourage greater attendance, with positive revenue impacts. This is supported by evidence on public attitudes: research carried out by YouGov for the Scottish Government highlighted attitudes towards the benefits and concerns of a Certification scheme. Around three quarters (74%) would be happy to share their vaccination status or test results via a certification scheme to allow entry to a venue and 62% say that this would make them feel

<sup>39</sup> [Coronavirus \(COVID-19\) vaccine certification: evidence paper update \(www.gov.scot\)](https://www.gov.scot/publications/coronavirus-evidence-papers/pages/39-40.aspx), pages 39-40.

<sup>40</sup> [Coronavirus \(COVID-19\) vaccine certification: evidence paper update \(www.gov.scot\)](https://www.gov.scot/publications/coronavirus-evidence-papers/pages/40.aspx), page 40.

<sup>41</sup> [S1216 Considerations in implementing longerterm baseline NPIs.pdf \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/81216/Considerations_in_implementing_longerterm_baseline_NPIs.pdf)

more comfortable if they were to go to a venue or an event (up from 58% in early June).<sup>42</sup> More recent polling data for Scotland shows that over half of all adults (59%) say that they support the introduction of Certification (fieldwork 2-4 November). Around a quarter (24%) oppose the scheme.<sup>43</sup>

**Option 2: Retain mandatory vaccine Certification in higher risk settings (current policy) and amend Certification to include a record of a negative test (LFD or PCR result) as an alternative to proof of vaccination**

**Costs**

*Implementation and Operating Costs*

It is not anticipated that there would be additional costs on businesses within scope directly associated with implementing this option, over and above those associated with implementing certification more generally. This option represents an **alternative** check to the NHS Scotland Covid Status app/PDF or paper certificate, rather than an *additional* check.

There is clear guidance around how and when to take a LFD test, however, some businesses within scope have indicated that where customers do not have either proof of vaccination or record of a negative test result the business may decide to provide a test kit so that the customer can leave and take the test safely. Any costs of this would fall to that business and if businesses choose to do so, there would potentially be an ongoing cost arising from businesses purchasing additional stock on an ongoing basis.

However, this practice is strongly discouraged by the Scottish Government in updated [Guidance](#) which clearly states that businesses should not distribute test kits to prospective customers. The distribution of test kits needs to be carefully managed to meet regulatory requirements to be able to recall test kits from users in the event of a performance or safety issue with the tests. Additionally, lateral flow tests are designed to be used at room temperature, on a flat, clean, dry surface with the ability of the user to wash their hands thoroughly before use to avoid contaminating the test. Individuals should be encouraged to test before they leave home to reduce the transmission risk.

*Wider Impacts*

Under this option, as the percentage of the population who are vaccinated increases and plateaus, implementing certification to include testing could potentially be perceived by some customers as creating **more** risky environments as vaccination is not incentivized. This could lead to loss in revenue through a small reduction in footfall, attendance and an increase in cancellations.

The Royal Mail postal services could be impacted upon. The UK Government have a contract in place with Royal Mail for the distribution of postal test kits (PCR and LFD) with agreed

<sup>42</sup> Scottish Government (2021). [Coronavirus Fortnightly Tracker Weeks 66-79 – Data Tables from 29 June to 23 September 2021](#) (Question SG\_302\_rb\_2 on 24-26 August). These figures exclude those who answered: 'Not applicable - would never visit such a venue/attend such an event anyway (20%)'. Methodology as per footnote 14.

<sup>43</sup> Scottish Government (2021). [coronavirus-covid-19-vaccine-certification-evidence-paper-update \(1\).pdf, . pages 34-35.](#)

volumes to cover any demand that arises (up to agreed thresholds) and those contracts cover all parts of Scotland including rural areas and islands. The addition of testing for domestic certification purposes will have a very minimal impact on the volumes handled through that contract in addition to the 2-3 million tests that we are already distributing each month by post in Scotland (a) because the scope of settings covered remains relatively small; and (b) the numbers of people likely to need a test because they are not vaccinated is not likely to be significant and is reducing as more people become fully vaccinated.

In addition, pharmacies have a similar dedicated contract in place for the distribution of LFD tests, with agreed volumes to cover any demand that arises (up to agreed thresholds) and those contracts cover all parts of Scotland including rural areas and islands. The addition of testing for domestic certification purposes will have a very minimal impact on the volumes handled through that contract in addition to the 1 million+ tests that we are already distributing each month through pharmacies.

### **Benefits**

This option could provide public health benefit as it would contribute to reducing the risk of infection and transmission of the virus and subsequent hospitalisations and pressure on the NHS over and above that provided by Option 1. and would increase customers' options to socialise, providing wider social benefit while offering increased protection through vaccination and testing. SAGE said that one approach to reducing the risk of non-isolated cases entering high risk settings is a COVID certification scheme - based on negative testing, vaccination, or record of a prior infection. SAGE considered with a medium confidence that a certification scheme could have medium effectiveness.<sup>44</sup>

By widening the scheme to include testing, many of the concerns raised by the night-time sector around equalities and potential inequalities faced by those – such as international students with non-MHRA vaccines – who were previously unable to access settings subject to Certification alongside would be mitigated against. The potential legal challenge from customers who are refused entry would also be mitigated against, given the ease of access to free LFD tests across Scotland. The Equalities Impact Assessment explores these issues in fullness.

Under this option, those without vaccine status including those who have been vaccinated with a non-MHRA vaccine, would be able to gain entry to late night venues with music, alcohol and dancing, or specified indoor and outdoor live events, expanding the potential customer base and revenue opportunity.

Under the current requirement for a minimum of 2 weeks between individuals receiving their second dose of vaccine and being eligible for certification, vaccine uptake data<sup>45</sup> suggests that:

- Around 88.3% of the overall population aged 18+ had received two doses of vaccine by 24 November, and would therefore be eligible to access certification by 8<sup>th</sup> December.
- Among younger age groups, this proportion fell to 69.5% of those aged 18-29, and 77.9% of those aged 30-39, and 87.9% of those aged 40-49.

<sup>44</sup> [S1216 Considerations in implementing longerterm baseline NPIs.pdf \(publishing.service.gov.uk\)](#)

<sup>45</sup> [COVID-19 Daily Dashboard | Tableau Public](#). Data accessed 26 November, covering 24 November.



This suggests a substantial portion of younger demographics may be unable to access certification, and would not be able to do so for several weeks. Business organisations representing nightclubs and late night hospitality settings have also provided consistent feedback of reduced footfall and revenues as a result of vaccine certification. Under this option, those unable to access certification would be able to access hospitality and events settings with a record of a negative test result, which would increase the potential eligible customer base for these businesses and reduce scope for cancellations. It would also potentially reduce the scope for larger groups to be discouraged from attending hospitality settings or events if individual members of their group were not able to access certification.

Increasing the potential customer base is important for the sectors covered by certification, as they have been significantly affected by the impact of the pandemic as a result of restrictions that have required long periods of closures and limits on their operating capacity<sup>46</sup>. Some of the hospitality businesses affected by certification are generate a substantial portion of annual turnover being generated in December<sup>47</sup>, meaning that introduction of proof of a negative test result within certification arrangements may be of particular importance to reducing footfall and revenue losses in the coming weeks.

This measure may also provide a degree of additional reassurance to customers that others in affected venues will be fully vaccinated, or will have demonstrated that they have recently had a negative Covid test result. There may also benefits to affected venues and businesses should this option result in a competitive advantage for settings in scope, as they would be perceived as 'less risky' environments, owing to an absence of unvaccinated people. These may provide reassurance to previously reluctant or risk-averse customers and encourage greater attendance, with positive revenue impacts.

However, it may not fully offset the negative impacts on footfall in these settings that could stem from certification being in place. For instance, it may not address footfall lost from spontaneous decision-making if individuals have not taken a Covid test within the required timeframe. There may also be lost footfall from individuals or groups who have chosen not to take up vaccination and who choose not to take tests or share results. Individuals or groups may also continue to choose to socialize in settings where testing or certification is not required.

Individual businesses may also look to offer lateral flow devices to customers at point of entry, should they be unable to offer evidence of vaccination or a negative test result. This could potentially reduce losses in footfall, and reduce risks of anti-social behavior in settings. However, this practice is strongly discouraged by the Scottish Government in updated [Guidance](#), which clearly states that businesses should not distribute test kits to prospective customers. The distribution of test kits must be carefully managed to meet regulatory requirements to be able to recall test kits from users in the event of a performance or safety issue with the tests. Lateral flow tests are designed to be used at room temperature, on a flat, clean, dry surface with the ability of the user to wash their hands thoroughly before use to avoid contaminating the test. Individuals should be encouraged to test before they leave home to reduce the transmission risk.

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<sup>46</sup> [Coronavirus \(COVID-19\) vaccine certification: evidence paper update \(www.gov.scot\)](#). See pages 45-46 for an overview of pandemic impacts on the broad sectors containing hospitality and events businesses.

<sup>47</sup> [Coronavirus \(COVID-19\) vaccine certification: evidence paper update \(www.gov.scot\)](#), page 46.

## **Option selected: Option 2**

As part of a package of mitigation measures, such as mandatory face coverings in some settings, provision of contact details in hospitality, test and protect with support for people to self-isolate and quarantine requirements for high-risk international arrivals, Certification should ensure that only fully vaccinated individuals, or those who can provide a record of a negative test within 24 hours, or people who are exempt are present in these settings or at these events, reducing the risk of infection and severe illness leading to hospitalisation amongst the attendees. SAGE have acknowledged the potential benefits of introducing a vaccine certification scheme in conjunction with a package of other NPIs to limit contact between infected and susceptible individuals, thereby minimising the risk of infections and serious disease.

Therefore, the Scottish Government consider that, based on the current state of the pandemic, the scientific evidence and balancing the direct harm of Covid (Harm 1) with the harm on wider society and the economy (Harms 2, 3 and 4), Option 2 has been deemed proportionate to protect public health.

The expansion of the scheme to include a record of a negative test and the scope of the scheme which remains narrower than most comparator countries will be kept under review. Any further Regulatory changes would require the completion of a further Business Regulatory Impact Assessment.

### **Supporting implementation in line with our policy aims**

**Sectoral guidance:** to support effective implementation consistent with our policy aim, we have provided information to the sectors where Certification is mandated on the policy and regulations, and the reasonable implementation, enforcement and handling of exemptions. This guidance can be found on the Scottish Government website [here](#).

Ministers have been clear that Certification will not be a requirement for public services or other settings that many people have no option but to attend such as retail, public transport, health services and education. We recognise that some businesses, outside the regulated settings, are asking people for evidence they have been fully vaccinated as a condition of entry or as a condition of employment. We emphasised in our guidance that businesses which are not covered by the Government's scheme would need to consider carefully their obligations under all relevant law including data protection, the Equality Act and Human rights. For more information see the Equality and Human Rights Commission Guidance for Employers [here](#).

**Public guidance:** we will also update the public guidance providing information on what Certification is, the policy objectives, where it is regulated and why, and the steps to attain Certification. Our Guidance will be clear about the settings in which use of Certification is required. It will explain that the scope of the Regulations has been carefully and deliberately limited to activities where the balance of public health risk clearly outweighs other rights considerations, and is designed to respect the rights of individuals. Specific protections have been put in place to ensure the scheme operates in a lawful manner.



**Ongoing stakeholder engagement:** We will continue to engage with stakeholders and gather intelligence on the impact of Certification. We will create feedback loops and build this evidence into the policy.

**Exceptions:** There will be exceptions for premises being used for certain purposes, including communal religious worship, un-ticketed events held at an outdoor public place with no fixed entry points and certain business events that individuals are required to attend for work purposes (not including any peripheral reception or function outside the core hours of the conference).

### Review

As the regulations have been laid under the Coronavirus Act 2020 there is a requirement to review the regulations every 21 days. The Covid Vaccine Certification provisions will expire on 28 February 2022, as with all other Covid measures under the Health Protection (Coronavirus) (Requirements) (Scotland) Regulations 2021. Parliamentary approval would be required to extend them further.

## **Scottish Firms Impact Test**

We have considered the impact that these regulations will have on Scottish businesses. The businesses affected by these regulations will largely be those affected by the previous regulations on certification. This means the analysis presented in the Scottish Firms Impact Test is similar to that presented in the previous BRIA for vaccine certification<sup>48</sup>. Where relevant, this analysis is repeated and amended below.

The amendment of certification to incorporate evidence of a negative test domestically will have an impact on Scottish companies affected by existing arrangements. This new requirement will result in financial expenditure on equipment and tests. There may be a positive impact on footfall and revenues compared to existing arrangements, though it may not fully reverse losses in footfall caused by certification as some consumers may alter their behaviour and favour settings where Certification is not required. Other consumers could favour settings where Certification is required.

- *Will it have an impact on the competitiveness of Scottish companies within the UK, or elsewhere in Europe or the rest of the world?*

As has been the case throughout the pandemic, policy divergence could present challenges for organisations operating across different parts of the United Kingdom as they implement different rules and regulations around Certification, and adapt their messaging which could lead to additional costs.

While some aspects of the policy are aligned, there is not a completely aligned 4 nations approach to the mandatory use of Certification. On 17 September, Wales announced that, from 11 October, individuals over 18 years old will have to prove they have a COVID pass, which includes testing as an alternative to vaccination, in order to attend the same settings that are in scope for Scottish Certification.<sup>49</sup> An extension to this scheme was announced to include

<sup>48</sup> [Coronavirus \(COVID-19\) domestic vaccine certification: business and regulatory impact assessment - gov.scot \(www.gov.scot\)](https://www.gov.scot/www.gov.scot)

<sup>49</sup> Welsh Government (17 September 2021). [Covid pass for events & nightclubs announced](#)

theatres, cinemas and concert halls from 15 November 2021.<sup>50</sup> The UK Government have stated in their report 'COVID-19 Response: Autumn and Winter Plan' (14<sup>th</sup> September 2021) that a contingency 'Plan B' may be implemented that would include a vaccine certification scheme without the option to test negative or to provide a record of recovery from a previous Covid-19 infection within a predetermined time period.<sup>51</sup> The UK Government subsequently published a call for evidence on the proposal for mandatory COVID certification in their Plan B scenario (27<sup>th</sup> September 2021).<sup>52</sup> They propose the use of certification in all nightclubs, and other venues open after 1am with alcohol, music and dancing and the same events thresholds as the Scottish Government. They are also considering the same exemptions with the addition of 'commemorative events' and 'diplomats or someone working for an international organisation'. Northern Ireland announced on 17 November that certification entry regulations for nightclubs, bars, restaurants, cinemas and a range of other settings will come into effect on 29 November with a grace period prior to enforcement commencing from 13 December.

The reduced divergence between policy across the UK could create competitive advantages and disadvantages for Scottish businesses, potentially in areas close to the border between Scotland and England. Some consumers may feel more secure in an environment with more widespread measures, and therefore prefer to travel to or do business in Scotland. Others businesses, particularly with high numbers of international clients and customers, may prefer to visit business in England where individuals would not be required to present their vaccine status when visiting hospitality venues or attending large events. This may be seen as a less burdensome option. Day visiting tourists may choose to visit England rather than Scotland for the same reasons. However, Covid passes have been in operation in other countries for some time and operated across wider settings so a limited certification scheme may not deter prospective visitors to Scotland who may be familiar with similar schemes. It is uncertain at present whether consumer behaviour will lead to wider use of certification in Scotland becoming a net advantage or disadvantage for Scottish business.

A reinsurance scheme for events has recently been introduced by the UK Government.<sup>53</sup> However, it is unlikely that those events covered by Certification in Scotland will be eligible for insurance to cover costs of implementation as the insurance policy has to be in place before the measure affecting operation if the event is announced. This could put Scottish event organisers at a disadvantage compared to businesses in England if a scheme is introduced at a later date there.

### Events Industry in the UK

As the requirement for Certification applies to unseated indoor events of more than 500 people, customers may choose to attend unseated outdoor events where there is no requirement for certification measures until 4,000 people are planned to attend, which may give some venues a competitive advantage. However, due to the climate and weather in Scotland, it is worth noting that it is not viable for events to take place outside for large parts of the year and would likely have little impact over the autumn and winter months. Any event with more than 10,000 people falls within certification scope.

<sup>50</sup> [Strengthened measures to reduce high coronavirus cases in Wales | GOV.WALES](#)

<sup>51</sup> [COVID-19 Response: Autumn and Winter Plan 2021 - GOV.UK \(www.gov.uk\)](#)

<sup>52</sup> [Proposal for mandatory COVID certification in a Plan B scenario: call for evidence - GOV.UK \(www.gov.uk\)](#)

<sup>53</sup> [Live Events Reinsurance Scheme - GOV.UK \(www.gov.uk\)](#)

With additional costs incurred through Certification, larger events could well struggle to break even and might therefore lose out in comparison to smaller venues who can continue to host unseated events under 500 attendees.

- *How many businesses and what sectors is it likely to impact on?*

As the settings affected by certification will not be altered by these regulations, businesses affected will lie within the Event Sector, Nightclubs and Late Night Settings, and Sports Venues.

There is emerging data on shares of businesses that may make use of certification within these sectors. Recent data from the Business Insights and Conditions Survey suggest that for the period 18-31 October, 20.2% of businesses in the Arts, Entertainment and Recreation sector and 23.3% of businesses within the Accommodation and Food Services sector were using, or intending to use, customer Covid-19 checks. These include vaccine certification. Within the Accommodation & Food Services sector, 30% of businesses in the Accommodation sector and 20.8% of businesses in Food and Beverage Services sector were using, or intending to use, customer Covid-19 checks<sup>54</sup>.

### Event Sector

Direct and indirect impacts on the Events Industry arising from certification would accrue to venue operators, but also potentially on event organisers, performers, support businesses and ancillary businesses, operating across a range of event types, depending on audience numbers. It is not currently possible to indicate the full range of individual events that would be impacted by the regulations, or the associated number of wider businesses affected. The following data therefore presents a summary of data on businesses associated with staging and supporting of events in Scotland overall.

It is estimated, based on the Inter-Departmental Business Register 2021 and 2020 Business Register and Employment Survey, that there are 3,725 Events Industry businesses in Scotland. Event catering businesses, performing arts, activities of sports clubs and activities of exhibition and fair organisers are such businesses in Scotland that fall under this classification.<sup>55</sup> These businesses operate across 4,560 sites (as some businesses may have more than one site) and are estimated to employ around 42,250 people (2% of Scotland's jobs in 2020). It is unclear

<sup>54</sup> [BICS weighted Scotland estimates: data to wave 43 - gov.scot \(www.gov.scot\)](https://www.gov.scot/data/bics-weighted-scotland-estimates-data-to-wave-43). Estimates are based on businesses that have not permanently stopped trading, with more than 10 employees, and a presence in Scotland.

<sup>55</sup> Events Industry defined here using the following SIC2007 codes:

5621 : Event catering activities

9001 : Performing arts

9002 : Support activities to performing arts

9004 : Operation of arts facilities

9311 : Operation of sports facilities

9312 : Activities of sport clubs

68202 : Letting and operating of conference and exhibition centres

74209 : Other photographic activities (not including portrait and other specialist photography and film processing)

79909 : Other reservation service activities (not including activities of tourist guides)

82301 : Activities of exhibition and fair organizers

82302 : Activities of conference organizers

93199 : Other sports activities (not including activities of racehorse owners)

what proportion of these businesses will be affected by the introduction of Certification as detailed data is unavailable on the scale of services/business revenue generated from the settings within scope. We currently have no specific data on supply chains for these businesses. It is likely that most of these are based in cities and larger towns although it is not possible to obtain detailed data at this time.

Based on the Annual Business Survey 2018, the events industry had an estimated turnover of £1,927 million in 2018 (0.8% of Scotland's non-financial business economy turnover in 2018) and an estimated Gross Value Added (GVA)<sup>56</sup> of £978 million in 2018 (1.0% of Scotland's non-financial business economy GVA in 2018). The local authority areas contributing most to total GVA within the events sector in 2018 were Glasgow City (17%), City of Edinburgh (15%) and Fife (9%).

Small businesses are the majority of the sector. Figures from the Inter Departmental Business Register indicate that in 2021, 97% of businesses in the Events Sector had fewer than 50 employees, 2% had between 50 and 249 employees and 1% had more than 250 employees.

The Business Register and Employment Survey 2020 indicates that, overall, more than half (54%) of employees in the sector work part-time.

Approximately 6,300 (11.1%) of workers in the events industry were self-employed. This is a slightly lower proportion than for the workforce as a whole (12.4%). The proportion of women working in the events industry is similar to the proportion in the overall workforce – 46.6% and 48.8% respectively. However, for Events Catering Activities, women make up 55.4% of the workforce and for Other Reservation Service and Related Activities they make up 72.9% of the workforce.<sup>57</sup>

### Sports:

For the sports sector, Certification will continue impact on Scottish Rugby home internationals, Scottish Football home internationals, and the home fixtures for all of Rangers, Celtic, Aberdeen, Hearts and Hibernian. The two Dundee clubs may occasionally be affected too. However, for domestic games, one of the Glasgow and Edinburgh clubs will have a home fixture each week and there will be additional domestic and European cup matches where Certification is required.

### Late night venues with music, alcohol and dancing

It is estimated, based on the Inter-Departmental Business Register 2021 and 2020 Business Register and Employment Survey, that there are 130 businesses under the heading non-charity licensed clubs. Nightclubs and sexual entertainment<sup>58</sup> businesses in Scotland fall under this

<sup>56</sup> Gross value added (GVA) represents the amount that individual businesses, industries or sectors contribute to the economy. It is the value of an industry's outputs less the value of intermediate inputs used in the production process.

<sup>57</sup> Source: Annual Population Survey, Jan-Dec 2019, ONS.

<sup>58</sup> As per previous work for Nightclub related BRIAs (e.g. p54-71: The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 (legislation.gov.uk) – Nightclub businesses are defined here as non-charity licensed clubs (within Standard Industrial Classification code 56.301). Nightclubs and sexual entertainment businesses in Scotland fall under this classification. The SIC code definition of nightclubs used here does not align perfectly with the definition of nightclubs used in certification regulations. These statistics therefore represent a best estimate.

classification. These businesses operate across 150 sites (as some businesses may have more than one site) and are estimated to employ around 1,500 people. Over half (56%) of employees working in the sector work part time. It is not possible to separate out sexual entertainment venues from this, though it is understood less than 20 operate in Scotland as of 2015. The vast majority of nightclub and sexual entertainment businesses are small (employing less than 50 people). We currently have no specific data on supply chains for these businesses. It is likely that most of these are based in cities and larger towns although it is not possible to obtain detailed data at this time.

- Based on the Annual Business Survey 2018, nightclub businesses had an estimated turnover of £84 million in 2018 (0.03% of Scotland's non-financial business economy turnover in 2018).
- Based on the Annual Business Survey 2018, nightclub businesses had an estimated Gross Value Added<sup>59</sup> of £44.6 million in 2018 (0.05% of Scotland's non-financial business economy GVA in 2018).
- Based on the Inter-Departmental Business Register 2021, it is estimated that there are 130 nightclub Businesses in Scotland. These businesses operate across 150 Sites (as some businesses may have more than one site).
- Based on the Business Register and Employment Survey (BRES) 2020, it is estimated that nightclub businesses provide 1,500 Jobs across Scotland.

#### Late Night Venues – Hybrid Venues

There are potentially premises that might be classed as pubs or restaurants in official statistics that could fall within scope of the Regulations.

Stakeholder estimates suggest that there may be around 300-400 premises across Scotland that operate as 'hybrid' venues (e.g. as pubs or restaurants during the day, and late night venues with music, alcohol and dancing at night). Stakeholders have also suggested there may potentially be up to 1,500 premises that may operate with some of the late night venues with music, alcohol and dancing characteristics (e.g. late opening, dancefloors, loud music).<sup>60</sup> However, it is not currently clear the extent to which all or some of these premises would fall within scope of the Regulations, or the extent to which these may have amended their commercial offer to remove themselves from the scope of certification since October 2021.

- *What is the likely cost or benefit to business?*

There may be costs to businesses that fall within scope of late night venues with music, alcohol and dancing, and businesses involved in staging live events of sufficient size to fall within scope of the regulations. These include both direct costs associated with compliance with the revised Regulations (additional to those associated with compliance with the existing regulations). The analysis below sets out potential changes as compared to previous certification arrangements, which are described in the previous BRIA<sup>61</sup>.

<sup>59</sup> Gross value added (GVA) represents the amount that individual businesses, industries or sectors contribute to the economy. It is the value of an industry's outputs less the value of intermediate inputs used in the production process.

<sup>60</sup> Night Time Industries Association (2021), Covid Status Certification: NTIA Scotland Briefing Paper

<sup>61</sup> [Coronavirus \(COVID-19\) domestic vaccine certification: business and regulatory impact assessment - gov.scot \(www.gov.scot\)](https://www.gov.scot/resources/documents/2021/04/Coronavirus_COVID-19_domestic_vaccine_certification_business_and_regulatory_impact_assessment_-_gov.scot)

Additional direct costs could arise in the form of affected businesses obtaining stocks of lateral flow devices to provide to customers at point of entrance, should those customers not have proof of vaccination or record of a negative test result in their possession. The extent to which individual businesses may choose to adopt this, and the costs it would involve for individual businesses, are unclear. They would also likely vary across individual businesses and settings. However, this may be adopted by businesses within late night settings and by events venues.

There may continue to be costs associated with lost footfall and revenues from those deterred from entry because of longer wait times or certification requirements in general, with footfall potentially displaced to venues or settings not covered by the Regulations. However, the potential for footfall losses is judged to be lower than circumstances where certification continued without the option of providing a record of a negative test result, as it expands the potential customer base for affected venues; impacts may also be offset to a degree by the additional reassurance to potential customers that other customers within venues will have been fully vaccinated or will have provided evidence of negative test results.

There may also be benefits to affected venues and businesses should this option result in a competitive advantage for settings in scope, as they would be perceived as 'less risky' environments, owing to an absence of unvaccinated people. This may provide reassurance to previously reluctant or risk-averse customers and encourage greater attendance, with positive revenue impacts.

## Competition Assessment

- *Will the measure directly or indirectly limit the number or range of suppliers?*

**Unclear.** Measure will potentially discourage some consumers' from attending late night venues with alcohol, dancing and music and live large scale events, and potential displacement to less regulated alternative venues and settings. This may place increased pressure on businesses involved in these activities through reduced footfall and turnover, with consequent pressures on business viability. This pressure may encourage business exit if sufficiently severe and long-lasting. However, inclusion of testing results within certification means this outcome would primarily be influenced by consumers' attitudes towards vaccination and testing, rather than restrictions resulting from certification.

- *Will the measure limit the ability of suppliers to compete?*

**Unclear.** The measure primarily impacts on consumers' ability to access venues and live events. However, there may be potential for displacement of unvaccinated consumers to other, less regulated settings. Similarly the displacement of vaccinated customers towards venues operating with Certification could occur.

- *Will the measure limit suppliers' incentives to compete vigorously?*

**No.** Measure will potentially restrict some consumers' ability to attend late night venues with alcohol, dancing and music and live large scale events, with potential for displacement to other less regulated settings (e.g. pubs) or greater competition for events providers and venues from other geographies. This may strengthen suppliers' incentives to compete across different markets.



- *Will the measure limit the choices and information available to consumers?*

**Yes.** Consumer choice of evening and live entertainment among those unwilling to either take up vaccination or provide a record of a negative test results may be reduced in terms of attending late night venues with alcohol, dancing and music and some live events. However, this would be as a consequence of those consumers' decisions around vaccination take-up and testing.

## **Consumer Assessment**

- *Does the policy affect the quality, availability or price of any goods or services in a market?*

**No.** The quality of goods and services available to consumers is unlikely to be impacted by the introduction of these regulations. However, the nature of services in different sectors will change as certification or provision of negative test results is mandatory in some settings and not others.

- *Does the policy affect the essential services market, such as energy or water?*

**No.** There is no expected impact on markets for essential services.

- *Does the policy involve storage or increased use of consumer data?*

**Yes.** When the original certification scheme was introduced on 1 October there was an interim solution which included increased use of consumer data. On 30 September we launched the [NHS Scotland Covid Status App](#) (the "App") for international use. This contained two unique QR codes, one for each dose of the vaccine. This product had been designed for use for international travel and so it is necessary to include full name, date of birth and details of vaccination to meet EU standards. This version of the App was used to demonstrate vaccine status in the settings in scope.

On 20 October, the NHS Scotland Covid Check App, which is used by venues to check QR codes, was updated so that when an international QR code is scanned for domestic purposes only, a green tick or 'certificate not valid' representing someone's vaccination status is displayed, rather than a person's name, date of birth and vaccination details.

In order to further minimise data display, on 21 October, the Covid Status App was updated to include a domestic page. This option simply shows the person's name and a QR code. When the QR code is scanned by the NHS Scotland Covid Check App it shows either a green tick or 'certificate is not valid' representing someone's vaccination status. The domestic App has functionality to hide or display a person's name. The Privacy Notice can be found on NHS Inform: [Personal information we process](#), [How we use your data](#), [Your Rights](#).

Demonstration of a negative LFD or PCR result as reported to the public reporting system will be through the presentation of a text message or email.

An update to the NHS Scotland Covid App will allow the added function to register and present record of a negative PCR test in December, with the inclusion of LFD tests to follow in a further iteration

Similarly, if someone is exempt, the interim solution (an exemption certificate) will state that fact and can be seen by the verifier. It is important to note that the personal data of individuals whose vaccination status is being verified is never stored or transmitted by the NHS Scotland COVID Check App. Once verification is complete, the personal data is deleted.

- *Does the policy increase opportunities for unscrupulous suppliers to target consumers?*

**Unclear.** There is a possibility that businesses that are outwith the settings outlined by the policy will adopt Certification. There is also a possibility that even those businesses that are in scope will adopt it for a definition of 'consumer' broader than what is intended (i.e. more than just attendees, for example performers or staff).

The Regulations will mitigate these risks to an extent, as they will clearly define the settings where there will be a legal requirement for businesses to take all reasonable measures to check vaccination, testing and exemption status. Equally, the Regulations will be clear that that legal requirement will not apply to employees or any person other than the attendees or 'consumers' of the service.

The risks will be further mitigated with sectoral guidance. To support effective implementation consistent with our policy aims, we will provide more information to the sectors where an amendment of Certification is mandated about the appropriate implementation, enforcement and handling of exemptions.

Ministers have been clear that Certification will not be a requirement for public services or other settings that many people have no option but to attend such as retail, public transport, health services and education. We recognise that some businesses, outside the settings in scope, are asking people for evidence they have been fully vaccinated as a condition of entry or as a condition of employment. Businesses which are not covered by the Government's scheme are required to meet their obligations under all relevant law including data protection, the Equality Act and Human rights in their design and implementation of any such policy. For more information see the Equality and Human Rights Commission Guidance for Employers [here](#).

- *Does the policy impact the information available to consumers on either goods or services, or their rights in relation to these?*

**Yes.** Consumers (i.e. attendees of the venues and events in scope) will have information about their rights regarding their personal data. A Privacy Notice has been produced and can be found on [NHS Inform](#). We are also developing Data Protection Impact Assessment (DPIA) which will be accessible to the public and kept up to date.

The Scottish Government is undertaking significant media relations and social media activity through Scottish Government accounts to increase awareness among the public of Certification. This is being supported by paid for advertising activity during September and October that will reach 3.32 million adults through radio and digital advertising. Also, information on domestic certification is being added to [nhsinform.scot](#). Promotional materials



are being distributed to key stakeholders to be used by those businesses and locations where Certification will be required.

- *Does the policy affect routes for consumers to seek advice or raise complaints on consumer issues?*

**No** - There is no expected impact on the routes for consumers to seek advice or raise complaints on consumer issues.

### **Test run of business forms**

No statutory forms will be created.

### **Digital Impact Test**

- *Does the measure take account of changing digital technologies and markets?*

**Yes.** How we aim to deliver Certification takes into account that most businesses and customers use technology and prefer digital solutions that smooth processes over more effectively. In advance of the launch of the scheme research into public attitudes carried out by YouGov for the Scottish Government, on 24-25 August 2021, (n=1,006 people in Scotland) highlighted attitudes towards the benefits and concerns of a certification scheme. Over half of respondents (55%) would download and use a mobile app to prove either vaccination or show a record of a negative test result, with just over one in five (23%) saying they would not use such an app.<sup>42</sup>

Further polling carried out by YouGov for the Scottish Government on 2-4 November found awareness of the vaccine certification scheme in Scotland is near universal at 93%, compared with 89% in early October and 84% towards the end of September. Awareness of the Covid status app is also high, at 80%, with one in three (36%) having downloaded it already and at 58% among those who have been to an eligible venue/event in the past week (although small base (n= 85) must be noted. Overall support for the scheme is 59%, with around a quarter (24%) opposing it and 13% neither supporting nor opposing (similar levels to when asked towards the end of October).

Consequently, without losing sight of the paper-based alternatives, we continue to actively promote the use of the digital package (the NHS Scotland Covid Status App and the NHS Scotland Covid Check App) as the most efficient method to operationalise Certification. The Covid Status App has been downloaded over **1.7 million times** (as of 24 Nov), **more than 1.2 million PDFs** were downloaded since QR codes were introduced on 3 Sept. Comparably over **516,000** printed versions have been issued, demonstrating positive engagement with the digital solution. We continue to monitor user activity. In the longer term, we see the NHS Scotland Covid Status App as both an opportunity and a stepping stone that will enable greater digital access to medical data more broadly for Scottish residents.

- *Will the measure be applicable in a digital/online context?*

**No.** Although Certification will be delivered mainly through digital means, it can only apply in physical settings where there is a risk of transmission of the virus. Therefore, the policy will not apply in a digital context.

- *Is there a possibility the measures could be circumvented by digital/online transactions?*

**No.** We do not envisage the policy being circumvented by digital transactions – large events on streaming or any experience of a late night venues with music, alcohol and dancing other than in-person are unlikely to be regarded as comparable substitutes. Therefore, there is no possibility to circumvent the policy digitally.

- *Alternatively, will the measure only be applicable in a digital context and therefore may have an adverse impact on traditional or offline businesses?*

**No.** The policy will not be applicable at all in a digital context, so it will not have an adverse impact on traditional business. One of the aims of the policy is to reduce the risk of settings in specified being required to operate under more restrictive protections or closure, therefore, the policy is designed to help, rather than adversely impact, offline businesses.

- *If the measure can be applied in an offline and online environment will this in itself have any adverse impact on incumbent operators?*

**No.** As explained, the policy will not be applied in an online environment. Therefore, we do not envisage any adverse impact on incumbent operators of nightclubs or large events.

### **Legal Aid Impact Test**

The policy does not in itself create any new legal rights.

The Regulations include enforcement measures which could in some cases lead to prosecution. These are linked to existing mechanisms within the *Health Protection Coronavirus (Requirements) (Scotland) Regulations 2021*. The intention is not to criminalise individuals in the sense of attendees at the premises and events at which Certification is required and at present it is envisaged the policy will have minimal to no impact on Legal Aid.

### **Enforcement, sanctions and monitoring**

The Regulations will set out that not putting in place a reasonable system to restrict entry only to those fully vaccinated or providing a record of a negative LFD test (unless exempt), and the failure to prepare and maintain a compliance plan for the system and other measures to minimise the risk of coronavirus transmission, will be an offence for a person responsible for the premises. Local Authority regulators, like Environmental Health Officers (EHOs) and Trading Standards Officers, are responsible for enforcing the requirements of businesses. We have ensured in the Regulations that Local Authority (LA) officers have the powers that they need to enforce this scheme in a proportionate and risk-based manner.

Businesses which meet the criteria for Certification as set out in the Regulations will be required to develop a plan that Local Authority regulators can request to see. In term of compliance monitoring and enforcement, this will be 'front loaded' through pre-event planning and LA officers inspecting plans for venues during the regular working hours in first instance.

For larger events, and more high profile, high risk games, there are likely to be LA officers on site during the event. Intelligence received from Police Scotland and/or complaints by customers/ other traders will be investigated post-event where resourcing permits on a risk/triage basis. A summary of expected activity is as follows:

#### *Pre-event/ night engagement*

- SG will share communications that Local Authorities can send out via email to venues and any business as usual direct engagement. The targeted audience for that communication will reflect the premises included and activities affected.

#### *On the day*

- Large events/large football games e.g. national team will usually justify Local Authority officer 'boots on ground', while other premises would be on a targeted basis, determined through their risk based approach, engagement with Police Scotland and resourcing by the Local Authority in question.
- At night/weekends – some Local Authorities may have Local Authority officers on the ground on some weekends or nights but not routinely. Compliance checks would be planned on a targeted intelligence gathering basis, informed by repeated complaints on a venue.

#### *Post event*

- Local Authorities would investigate concerns reported and consider intelligence gathered and take action as necessary taking a 4 Es approach.
- Enforcement requires corroborated evidence to initiate formal action, which will be supported by targeted compliance checks based on intelligence.

The Local Authority Covid-19 Expert Officer Group has estimated the costs to Local Authority Regulatory service. Based on the assumption that there are 2,000 businesses and 500 events in scope, costs are estimated at £225,000 in the initial 6 months. Since restrictions on capacity limits on live events has been repealed, the local authority resource used in relation to capacity limits has been re-directed to support implementation of Certification.

Police Scotland may have a role should there be any public disorder or serious criminal offences such as fraud associated with Certification. Effective stewarding and policing activity routinely operates to mitigate disorder and discourages fraudulent activity and the additional costs of certification are not expected to be significant. Any costs can be absorbed as part of Police Scotland's role in respect of live events and other settings in scope.

### **Implementation, delivery plan and post-implementation review**

The Scottish Government is responsible for monitoring and evaluation of the policy. As the regulations have been laid under the Coronavirus Act 2020 there is a requirement to review the regulations every 21 days. The extent to which the policy (Covid Status Certification) is achieving the policy objectives (of reducing the risk of transmission, reducing the risk of serious illness and death thereby alleviating current and future pressure on the NHS, reducing the risk of settings specified in the scheme being required to operate under more restrictive protections, or to close; and increase the protection enjoyed by those using settings covered by the scheme and their contacts) is being monitored in line with this requirement. Monitoring and evaluation will also provide us with further information about other positive and negative effects of the

continuation and amendment of the policy. We will also continue to assess whether any less intrusive measures could be introduced to achieve the same combination of policy objectives in respect of the higher risk sectors concerned; if so, the policy will be immediately reviewed.

The Certification provisions will expire on 28 February 2022, as with all other Covid measures under the *Health Protection (Coronavirus) (Requirements) (Scotland) Regulations 2021*. Parliamentary approval would be required to extend them further.

## Summary and recommendations

The Scottish Government’s Strategic Framework includes a package of measures which, taken together, are designed to suppress transmission of the virus. Although daily Covid case numbers are dropping in Scotland, case numbers remain too high, and we still have a large susceptible population which could lead to cases rising again.

This BRIA has set out the relative costs and benefits of an amended certification option with addition of record of a negative covid test, compared against the certification option currently in place; both of which have the intended effect of reducing the risk of transmission, reducing the risk of serious illness and death thereby alleviating current and future pressure on the NHS, reducing the risk of settings specified in the scheme being required to operate under more restrictive protections, or to close; and increase the protection enjoyed by those using settings covered by the scheme and their contacts. Our assessment of the options has been informed as much as possible by engagement with the sectors in scope.

A summary of costs and benefits associated with the options is presented below in Table 4:

Measure	Benefits	Costs
<p><b>Option 1: Retain mandatory vaccine Certification in higher risk settings (current policy)</b></p>	<p>Sectors in scope continue to be characterised by many of the high risk factors associated with transmission of the virus. Certification is an additional means through which we can continue to reduce the risk of transmission. As such, it will mitigate the risk of closure and more restrictive measures, and consequent negative economic impact.</p> <p>This option would result in some public health benefit and would reduce the risk of infection and</p>	<p>These include both direct costs of compliance with the regulations (staffing and infrastructure); local government monitoring and enforcement costs; potential losses of footfall and revenue arising from reduction of customer base for affected venues, particularly among younger demographics; cashflow impacts of requirements to provide refunds for ticketed events; business impact from cancellation or reduced scale of events.</p>

	transmission of the virus and subsequent hospitalisations and pressure on the NHS.	
<p><b>Option 2: Retain mandatory vaccine Certification in higher risk settings (current policy) and expand Certification to include record of a negative test (LFD or PCR result) as an alternative to providing proof of vaccination</b></p>	<p>This option would result in the greatest public health benefit as it would reduce the risk of infection and transmission of the virus and subsequent hospitalisations and pressure on the NHS and would increase customers options to socialise, providing wider social benefit while offering them increased protection through vaccination and testing.</p> <p>Potential for reduced losses of footfall and revenue compared with those that could arise under Option 1, by incorporation of record of test results as alternative to proof of vaccination. Potentially important for businesses with larger share of younger demographics in customer base, who currently have lower vaccination rates. The inclusion of testing could potentially be perceived by some customers as reducing risk within specific premises. , potentially supporting footfall.</p>	<p>There would be no additional costs on businesses within scope directly associated with implementing this option, relative to Option 1, as is an alternative check to the NHS Scotland Covid Status app/PDF or paper certificate, rather than an <i>additional</i> check.</p> <p>There is a risk with this option that customers perceive the addition of testing as creating more risky environments as vaccination is no longer being incentivized. This could lead to loss in revenue through a small reduction in footfall, attendance and an increase in cancellations.</p>

Table 2. Summary table.

We conclude that Option 2 – the retention of mandatory vaccine Certification in higher risk settings (current policy) and an expansion to include record of a negative test - is a necessary and proportionate response, alongside an effective baseline of public health measures, which will best meet our policy objectives. Monitoring and evaluation will inform implementation as well as regular review (at least once every 21 days) of the Regulations to determine whether any less intrusive alternative measures could be introduced to achieve the same combination of policy objectives in respect of the higher risk sectors concerned.

### **Declaration and publication**

#### Sign-off for BRIA:

I have read the Business and Regulatory Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the measures set out in the regulations and guidance. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

**Signed: John Swinney**

**Date: 29 November 2021**

**Minister's name:** John Swinney MSP

**Minister's title:** Deputy First Minister and Cabinet Secretary for Covid-19 Recovery

## **Annex A**

### **Stakeholders and sectors engaged**

Business Organisations including Scottish Chamber of Commerce and Federation of Small Businesses  
Hospitality, including Scottish Wedding Industry Alliance  
Tourism  
Events, including the Events Industry Advisory Group and wider, individual enterprises and industry members.  
Performing arts / arts venues  
Higher education  
Disability organisations  
Police  
Trade Unions, including the STUC  
Night time economy  
Local Government (Environmental Health Officers)  
Sporting organisations (Football, Rugby, Horse Racing)  
Music Industry  
Legal specialists  
Agriculture  
Rural  
Cinema,  
Theatre  
Music  
Museums  
Leisure





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The Scottish Government  
St Andrew's House  
Edinburgh  
EH1 3DG

ISBN: 978-1-80201-737-3 (web only)

Published by The Scottish Government, November 2021

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA  
PPDAS986906 (11/21)

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