

Version
as at 3 November 2021



**COVID-19 Public Health Response (Exemptions and
Conditions for Recognised Seasonal Employer Flights)
Notice 2021**

(LI 2021/296)

Pursuant to clause 26 of the COVID-19 Public Health Response (Air Border) Order (No 2) 2020, the Minister for COVID-19 Response gives the following notice after complying with that clause.

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This notice is administered by the Ministry of Health.

Conditions for RSE workers and aircrew members on arrival

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Notice

1 Title

This notice is the COVID-19 Public Health Response (Exemptions and Conditions for Recognised Seasonal Employer Flights) Notice 2021.

2 Commencement

This notice comes into force at 11.59 pm on 3 October 2021.

3 Interpretation

In this notice,—

Air Border Order means the COVID-19 Public Health Response (Air Border) Order (No 2) 2020

RSE or **Recognised Seasonal Employer** has the meaning given by provision WH1.5 of the Recognised Seasonal Employer (RSE) Instructions, meaning those immigration instructions certified under section 22 of the Immigration Act 2009

RSE flight has the meaning given by clause 4

RSE place means any of the following countries:

- (a) Vanuatu:
- (b) Samoa:
- (c) Tonga

RSE prerequisite means an RSE prerequisite set out in Schedule 2

RSE worker, in relation to an RSE flight, means a person who—

- (a) is an employee of a Recognised Seasonal Employer; and
- (b) is ordinarily resident in the RSE place from which the RSE flight departs; and
- (c) holds an RSE limited visa granted—
 - (i) in accordance with provision WH1.15 of the Recognised Seasonal Employer (RSE) Instructions, and provision H5.30.20 of the COVID-19 Support Restricted Temporary Entry Instructions, meaning those immigration instructions certified under section 22 of the Immigration Act 2009; or
 - (ii) by special direction under that Act.

4 Meaning of RSE flight

(1) In this notice, **RSE flight** means an international flight that meets the following criteria:

- (a) the flight is from an international airport in an RSE place to—
 - (i) an RSE port; or
 - (ii) any other airport in New Zealand to which the flight is required to be diverted:
- (b) the owner or charterer of the aircraft undertaking the flight is an RSE carrier:
- (c) the flight is chartered, and not part of a scheduled international air service:
- (d) it is a condition of carriage that passengers meet—
 - (i) all of the applicable RSE prerequisites on boarding the aircraft; and
 - (ii) the conditions set out in clauses 7 to 9 and 11(2)(a) and (3).

(2) In this clause,—

RSE carrier means—

- (a) Air New Zealand Limited; or
- (b) Air Vanuatu (Operations) Limited

RSE port means any of the following airports in New Zealand:

- (a) Auckland International Airport:
- (b) Christchurch International Airport:
- (c) Queenstown International Airport:
- (d) Wellington International Airport

scheduled international air service has the meaning given by section 87A of the Civil Aviation Act 1990.

5 Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1 have effect according to their terms.

Exemptions for arrivals on RSE flights

6 Exemptions for arrivals on RSE flights

- (1) A person who arrives in New Zealand on an aircraft undertaking an RSE flight is exempt from the requirements to comply with the following provisions of the Air Border Order:
 - (a) clause 8(2A) (requirement for confirmed allocation):
 - (b) clause 8(3) to (4) (requirement for isolation or quarantine).
- (2) An exemption under subclause (1) does not apply if the person fails to comply with the conditions set out in this notice.

Condition for RSE workers before boarding

[Revoked]

Heading: revoked, at 11.59 pm on 3 November 2021, pursuant to clause 8 of the COVID-19 Public Health Response (Exemption from Vaccination Requirements for RSE Workers) Notice 2021 (SL 2021/346).

7 RSE worker must be vaccinated unless excluded

[Revoked]

Clause 7: revoked, at 11.59 pm on 3 November 2021, by clause 8 of the COVID-19 Public Health Response (Exemption from Vaccination Requirements for RSE Workers) Notice 2021 (SL 2021/346).

Conditions for RSE workers and aircrew members before boarding

8 RSE worker or aircrew member must not be close or casual contact

- (1) An exemption under clause 6(1) for an RSE worker or an aircrew member is subject to the condition set out in this clause.
- (2) The condition is that the person is not a close contact, or a casual contact, because of any last risk event within 14 days before their departure on the aircraft.
- (3) For the purposes of this clause, **casual contact**, **close contact**, and **last risk event** have the meanings given by clause 7(3) of the COVID-19 Public Health Response (Exemptions and Conditions for Quarantine-free Travel) Notice 2021, except that a reference in that clause to “QFT place” must be read as “RSE place”.

9 RSE worker or aircrew member must make statement confirming matters

- (1) An exemption under clause 6(1) for an RSE worker or an aircrew member is subject to the condition set out in this clause.

- (2) The condition is that, before boarding the aircraft, a statement is made by, or on behalf of, the person confirming that the person meets—
 - (a) all of the applicable RSE prerequisites; and
 - (b) the condition set out in clause 8.

Conditions for RSE workers and aircrew members on arrival

10 RSE worker or aircrew member must meet applicable RSE prerequisites

- (1) The exemption under clause 6(1)(b) for an RSE worker or an aircrew member is subject to the condition set out in this clause.
- (2) The condition is that, on the person's arrival in New Zealand, they meet all of the applicable RSE prerequisites.

11 RSE worker or aircrew member must wear face covering

- (1) The exemption under clause 6(1)(b) for an RSE worker or an aircrew member is subject to the condition set out in this clause.
- (2) The condition is that the person—
 - (a) wore a face covering while they were on the aircraft; and
 - (b) wears a face covering while they are on the airside of the airport at which they arrive in New Zealand.
- (3) However, the condition does not require the person to wear a face covering if—
 - (a) there is an emergency; or
 - (b) wearing a face covering is not safe in all of the circumstances; or
 - (c) the person is in a defined or enclosed space on an aircraft that is separate from the passenger area; or
 - (d) the person is communicating with a person who is deaf or hard of hearing and visibility of the mouth is essential for communication; or
 - (e) the person is asked to remove the face covering to ascertain identity; or
 - (f) removal of, or not wearing, the face covering is otherwise required or authorised by law; or
 - (g) the person is under the age of 12 years; or
 - (h) the person has a physical or mental illness or condition or disability that makes wearing a face covering unsuitable; or
 - (i) the person needs to remove the face covering to take medicine; or
 - (j) the person needs to remove the face covering to eat or drink.
- (4) In this clause, **face covering** means a covering of any type that covers the nose and mouth of a person.

12 RSE worker or aircrew member must give evidence and answers

- (1) The exemption under clause 6(1)(b) for an RSE worker or an aircrew member is subject to the condition set out in this clause.
- (2) The condition is that, on the person's arrival in New Zealand, they—
 - (a) provide to a relevant official, when requested, evidence to establish that,—
 - (i) on boarding the aircraft, they met all of the applicable RSE prerequisites and the condition set out in clause 8; and
 - (ii) they meet the condition set out in clause 11; and
 - (b) answer any related questions put to them by a relevant official.
- (3) In this clause, **relevant official** means any of the following persons:
 - (a) a health protection officer, a medical officer of health, or another health official;
 - (b) an immigration officer;
 - (c) a Customs officer.

13 RSE worker or aircrew member must be at low risk of having or transmitting COVID-19

- (1) The exemption under clause 6(1)(b) for an RSE worker or an aircrew member is subject to the condition set out in this clause.
- (2) The condition is that the person is not someone who a relevant health professional determines, on the person's arrival in New Zealand,—
 - (a) is at more than a low risk of having or transmitting COVID-19; or
 - (b) is a close contact of a person who is at more than a low risk of having or transmitting COVID-19.
- (3) In this clause, **relevant health professional** means—
 - (a) a suitably qualified health practitioner responsible for the medical examination and testing of persons under clause 8(2) of the Air Border Order; or
 - (b) a medical officer of health.

Conditions for RSE workers after arrival

14 RSE worker must be supervised and provided for by RSE

- (1) The exemption under clause 6(1)(b) for an RSE worker is subject to the condition set out in this clause.
- (2) The condition is that, during the person's period of self-isolation, their RSE—
 - (a) supervises them; and
 - (b) provides for them, including by—

- (i) transporting them to their place of self-isolation; and
 - (ii) accommodating them at their place of self-isolation; and
 - (iii) providing them with meals and other supplies.
- (3) In this clause and clauses 15 and 16,—
- period of self-isolation**, for a person, means the period that—
- (a) starts as soon as practicable after they arrive in New Zealand; and
 - (b) ends when they receive a result from the test referred to in clause 16(2)(b) (on the fifth day after they arrive in New Zealand), but no later than 14 days after the time and date when they arrive in New Zealand
- place of self-isolation**, for a person, means accommodation provided by their RSE at or near the RSE’s place of employment.

15 RSE worker must self-isolate

- (1) The exemption under clause 6(1)(b) for an RSE worker is subject to the condition set out in this clause.
- (2) The condition is that, during their period of self-isolation, the person—
 - (a) initially travels as directly as practicable to their place of self-isolation by private transportation provided by their RSE; and
 - (b) remains at their place of self-isolation except—
 - (i) to work at their RSE’s place of employment with no one other than their fellow residents; or
 - (ii) to preserve or protect their own or another person’s life, health, or safety in an emergency; and
 - (c) does not permit anyone to enter their place of self-isolation except—
 - (i) their fellow residents; or
 - (ii) someone who needs to enter to preserve or protect their own or another person’s life, health, or safety in an emergency; and
 - (d) maintains physical distancing (to the greatest extent practicable) from everyone other than their fellow residents; and
 - (e) wears personal protective equipment at all times (to the greatest extent practicable) when outside their place of self-isolation.
- (3) In this clause, **fellow resident**, of an RSE worker, means any other RSE worker who resides together, and shares facilities, with them at their place of self-isolation.

16 RSE worker must be tested for COVID-19

- (1) The exemption under clause 6(1)(b) for an RSE worker is subject to the condition set out in this clause.

- (2) The condition is that the person reports for, and undergoes, a nucleic acid amplification test (NAAT) for COVID-19 at their place of self-isolation—
 - (a) on the day on which they arrive in New Zealand or, if that is not practicable, the next day; and
 - (b) on the fifth day after the day on which they arrive in New Zealand.
- (3) In this clause, **nucleic acid amplification test (NAAT) for COVID-19** means a test for severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) viral ribonucleic acid using—
 - (a) reverse transcription polymerase chain reaction (RT-PCR); or
 - (b) transcription-mediated amplification (TMA).

**Schedule 1
Transitional, savings, and related provisions**

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**Part 1
Provisions relating to this notice as made**

- 1 RSE flights from Vanuatu from 11.59 pm on 3 October 2021**
This notice applies in relation to an RSE flight from Vanuatu only if it departs for New Zealand at or after 11.59 pm on 3 October 2021 New Zealand time.

- 2 RSE flights from Samoa or Tonga from 11.59 pm on 11 October 2021**
This notice applies in relation to an RSE flight from Samoa or Tonga only if it departs for New Zealand at or after 11.59 pm on 11 October 2021 New Zealand time.

Schedule 2

RSE prerequisites

cl 3

1 What this schedule does

- (1) This schedule sets out the RSE prerequisites applying to a person in connection with their departure for, or arrival in, New Zealand on an aircraft undertaking an RSE flight.
- (2) For an RSE worker, the RSE prerequisites in clauses 3 to 6, 8, and 9 apply.
- (3) For an aircrew member, the RSE prerequisites in clauses 5(1) and 6 to 8 apply.

2 Interpretation

In this schedule, **specified 14-day period**, for a person, means the period that—

- (a) starts at the beginning of the 14th day before the day on which the person boards the aircraft undertaking the RSE flight; and
- (b) ends when the person boards the aircraft.

3 Location during specified 14-day period

It is an RSE prerequisite that, during the specified 14-day period, the person has not been in any country other than their RSE place.

4 Early end to isolation or quarantine

It is an RSE prerequisite that, if the person ended a period of isolation or quarantine during the specified 14-day period, they did not end that period early (whether or not authorised by the law of the RSE place) to enable them to depart from the RSE place on the RSE flight concerned or any other flight.

5 Results of test for COVID-19

- (1) It is an RSE prerequisite that the person—
 - (a) has not had a positive result from a test for COVID-19 during the specified 14-day period; or
 - (b) has had a positive result from a test for COVID-19 during that period but has a certificate from a medical practitioner that verifies that the medical practitioner is of the opinion that the person is no longer infectious with COVID-19 (that is, the result is indicative of what is commonly referred to as a historical infection).
- (2) It is an RSE prerequisite that the person is not awaiting the results of a test for COVID-19 that the person has undergone during the specified 14-day period.

6 Direction to be tested or to isolate

- (1) It is an RSE prerequisite that the person is not subject to a relevant direction in the RSE place to undergo a test for COVID-19 or to isolate from others.
- (2) In this clause,—
official of a public health authority, in relation to an RSE place, includes a person who is engaged by a public health authority of the RSE place
relevant direction, in relation to an RSE place,—
 - (a) means a direction under a law of the RSE place; and
 - (b) includes a direction or advice from a suitably qualified health practitioner, or an official of a public health authority, given in the RSE place.

7 Aircrew members who have been on relevant flights

- (1) This clause applies in relation to an aircrew member who, during the specified 14-day period, has been on an aircraft undertaking a relevant flight.
- (2) It is an RSE prerequisite that the aircrew member—
 - (a) has had a negative result from a test for COVID-19 administered no earlier than 72 hours after the arrival, at the destination concerned, of the aircraft that undertook the relevant flight; and
 - (b) has not been on an aircraft undertaking a flight from New Zealand to the RSE place concerned (or vice versa) since that arrival and before receiving the negative result from the test.
- (3) In this clause,—
low-risk destination means—
 - (a) an RSE place; or
 - (b) Antarctica; or
 - (c) the Cook Islands; or
 - (d) the Federated States of Micronesia; or
 - (e) Kiribati; or
 - (f) Marshall Islands; or
 - (g) Nauru; or
 - (h) New Caledonia; or
 - (i) Niue; or
 - (j) Palau; or
 - (k) Solomon Islands; or
 - (l) Tokelau; or
 - (m) Tuvalu

relevant flight means—

- (a) a flight to or from a country (or other place) outside New Zealand other than a low-risk destination; or
- (b) a flight to or from a low-risk destination on an aircraft carrying any passenger who has not been in New Zealand or a low-risk destination for the entire period that—
 - (i) starts at the beginning of the 14th day before the day on which the passenger boards the aircraft; and
 - (ii) ends when the passenger boards the aircraft; or
- (c) a flight between 2 places that are both in New Zealand where the purpose of the flight is to transfer persons to an MIQF.

8 Symptoms of COVID-19

It is an RSE prerequisite that—

- (a) the person does not have any of the following symptoms:
 - (i) a new or worsening cough;
 - (ii) a sore throat;
 - (iii) shortness of breath;
 - (iv) a runny nose;
 - (v) loss of sense of smell;
 - (vi) a fever; or
- (b) a suitably qualified health practitioner is of the opinion, on the basis of the symptoms that the person is experiencing, that the person should not be required to isolate or quarantine.

9 Contact tracing information

- (1) The purpose of the RSE prerequisite specified in this clause is to facilitate contact tracing in relation to a person.
- (2) It is an RSE prerequisite that the specified information for the person has been provided (by them or on their behalf) to the Ministry of Health by way of the approved system.
- (3) In this clause, **approved system** and **specified information** have the meanings given by clause 9(4) of Schedule 2 of the Air Border Order.

Version as at
3 November 2021

**COVID-19 Public Health Response (Exemptions and
Conditions for Recognised Seasonal Employer Flights)
Notice 2021**

Schedule 2

Dated at Wellington this 1st day of October 2021.

Hon Chris Hipkins,
Minister for COVID-19 Response.

Issued under the authority of the Legislation Act 2019.
Date of notification in *Gazette*: 1 October 2021.

Notes

1 *General*

This is a consolidation of the COVID-19 Public Health Response (Exemptions and Conditions for Recognised Seasonal Employer Flights) Notice 2021 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

COVID-19 Public Health Response (Exemption from Vaccination Requirements for RSE Workers) Notice 2021 (SL 2021/346): clause 8