

**Version  
as at 3 February 2022**



**COVID-19 Public Health Response (Protection  
Framework and Other Matters) Amendment Order 2022**  
(SL 2022/6)

This order is made by the Minister for COVID-19 Response under sections 11 and 15(1) of the COVID-19 Public Health Response Act 2020 in accordance with section 9 of that Act.

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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 order is administered by the Ministry of Health.**

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**Order**

**1 Title**

This order is the COVID-19 Public Health Response (Protection Framework and Other Matters) Amendment Order 2022.

**2 Commencement**

This order comes into force at 11.59 pm on 3 February 2022.

## Part 1

### Amendments to COVID-19 Public Health Response (Protection Framework) Order 2021

#### 3 Principal order

This Part amends the COVID-19 Public Health Response (Protection Framework) Order 2021.

#### 4 Clause 5 amended (Interpretation)

- (1) In clause 5(1), replace the definition of **face covering** with:

**face covering** has the meaning given by clause 11(2)

- (2) In clause 5(1), insert in their appropriate alphabetical order:

**education outside the classroom service** means a service involving curriculum-related activities that is provided to students of a registered school in premises other than designated education and care premises

**EOTC provider** means a person (other than an education entity) that works with a registered school to provide an education outside the classroom service to students

**medical-grade face covering** means a covering that meets or exceeds any of the following standards (*see* subclause (3)):

- (a) Type IIR of BS EN 14683:2019 Medical face masks. Requirements and test methods;
- (b) Level 2 of ASTM F2100-21 Standard Specification for Performance of Materials Used in Medical Face Masks;
- (c) AS 4381:2015 Single-use face masks for use in health care

**specified EOTC event** means an event permitted under clause 54A

**vaccine-mandate work** means any work that is—

- (a) certain work, as defined in clause 4 of the COVID-19 Public Health Response (Vaccinations) Order 2021; or
- (b) specified work, as defined in clause 7(1) of the COVID-19 Public Health Response (Specified Work Vaccinations) Order 2021 and not excluding the work described in clause 7(2) of that order

- (3) After clause 5(2), insert:

- (3) Copies of the standards incorporated by reference in the definition of **medical-grade face covering** are—

- (a) available for inspection, free of charge, at the head office of the Ministry of Health and at other places that the Director-General determines are appropriate; and
- (b) available for purchase from—

- (i) Standards New Zealand, in the case of BS EN 14683:2019:
- (ii) ASTM International, in the case of ASTM F2100-21:
- (iii) Standards Australia, in the case of AS 4381:2015.

**5 Clause 11 amended (Meaning of face covering rule)**

In clause 11, insert as subclause (2):

- (2) For the purposes of the face covering rule, **face covering** means—
  - (a) a face covering of the type specified in an active COVID-19 response schedule for the purposes of an applicable COVID-19 provision; or
  - (b) if no type is specified, a covering of any type that—
    - (i) covers the nose and mouth of a person; and
    - (ii) is secured to the person’s head by ear loops or a head loop.

**6 Clause 24 amended (Business or service must have systems and processes to ensure workers wear face coverings)**

In clause 24(1)(b), replace “clause 11(a)(ii)” with “clause 11(1)(a)(ii)”.

**7 Clause 25 amended (Regulated business or service must comply with CVC rules or non-CVC rules)**

- (1) After clause 25(2), insert:
  - (2A) A regulated business or service that is an education outside the classroom service is not required to comply with this clause in a defined space within its premises if clause 74A is an applicable COVID-19 provision in respect of the defined space.
- (2) In clause 25(3), replace “In this clause” with “In this order”.

**8 Clause 28 amended (Person who is not CVC compliant must not enter regulated premises that are CVC-only)**

After clause 28(2)(b), insert:

- (c) a student entering the premises for the purposes of participating in a specified EOTC event in a defined space within the premises.

**9 Clause 51 amended (No event unless permitted)**

In clause 51(4), replace “or 54” with “54, or 54A”.

**10 New clause 54A inserted (Specified EOTC events permitted)**

After clause 54, insert:

**54A Specified EOTC events permitted**

- (1) An event that complies with the requirements in subclauses (2) to (6) is permitted.

- (2) The person in control of the defined space where the event is held must be an EOTC provider that, for the duration of the event, is providing an education outside the classroom service in the defined space.
- (3) A person (including any worker) must produce their CVC when requested (on or after entering the defined space where the event is held) by the EOTC provider unless the person is—
  - (a) under the age of 12 years and 3 months; or
  - (b) a student participating in the event.
- (4) The EOTC provider must have systems and processes in place to ensure, so far as is reasonably practicable, that—
  - (a) the defined space where the event is held is exclusively used for the purpose of education outside the classroom services for the duration of the event; and
  - (b) the only people at the event—
    - (i) are students participating in the event; or
    - (ii) are CVC compliant.
- (5) The EOTC provider must comply with clauses 19 and 21.
- (6) The EOTC provider must have systems and processes in place to ensure, so far as is reasonably practicable, that each person who enters the premises—
  - (a) scans the QR code for the event; or
  - (b) provides a contact record in accordance with the EOTC provider’s alternative contact record systems and processes.
- (7) A breach of subclause (3) is a low risk infringement offence for the purposes of section 26(3) of the Act.

**11 Clause 74 amended (How face covering rule applies to education entities)**

In clause 74(4), replace “clause 11(a)(i)” with “clause 11(1)(a)(i)”.

**12 New clause 74A inserted (How CVC requirements apply to education outside the classroom services)**

After clause 74, insert:

**74A How CVC requirements apply to education outside the classroom services**

- (1) This clause applies to an education outside the classroom service that is a regulated business or service.
- (2) The education outside the classroom service must, in a defined space where a specified EOTC event is held, operate in accordance with—
  - (a) all CVC rules; or
  - (b) all non-CVC rules; or
  - (c) clause 54A (specified EOTC events permitted).

- (3) If an education outside the classroom service alternates between operating under any combination of the CVC rules, non-CVC rules, and clause 54A in a defined space, the education outside the classroom service must have systems and processes in place (for example, regular cleaning of surfaces) to mitigate the risks of spreading COVID-19 that arise from alternating between those rules and that clause.

**13 Clause 103 amended (Exemption for health services)**

After clause 103(2)(b), insert:

- (c) a person must comply with the face covering rule when they are carrying out vaccine-mandate work, if an applicable COVID-19 provision requires them to do so.

**14 Clause 104 amended (Other exemptions)**

In clause 104, insert as subclause (2):

- (2) However, subclause (1) does not exempt a person from complying with the face covering rule when they are carrying out vaccine-mandate work, if an applicable COVID-19 provision requires them to do so.

**15 Schedule 5 amended**

- (1) In Schedule 5, Part 2, after the item relating to clause 54, insert:

cl 54A Specified EOTC events permitted

- (2) In Schedule 5, Part 2, before the item relating to clause 83, insert:

cl 74A How CVC requirements apply to  
education outside the classroom  
services

**16 Schedule 6 amended**

- (1) In Schedule 6, Part 2, after the item relating to clause 52, insert:

cl 54A Specified EOTC events permitted

- (2) In Schedule 6, Part 2, after the item relating to clause 71, insert:

cl 74A How CVC requirements apply to  
education outside the classroom  
services

**17 Schedule 7 amended**

- (1) In Schedule 7, Part 2, item relating to clause 23, third column, replace paragraph (a) with:

- (a) when on public transport services,—  
(i) if they are aged 8 years or over or are a student who is in year 4 or above (and for that purpose **face covering rule** has the same meaning as in clause 11, except that clause 11(1)(a)(i) does not apply); and  
(ii) except—

- (A) when on a ship that does not have an enclosed space for passengers; and
  - (B) when they are a passenger within their allocated carriage on a specified KiwiRail service:
- (2) In Schedule 7, Part 2, item relating to clause 23, third column, replace paragraph (c) with:
  - (c) when on school transport services, if they are aged 8 years or over or are a student who is in year 4 or above (and for that purpose **face covering rule** has the same meaning as in clause 11, except that clause 11(1)(a)(i) does not apply):
- (3) In Schedule 7, Part 2, item relating to clause 23, third column, after paragraph (h), insert:
  - (ha) when at the premises of a food and drink business or service, unless the person is a worker at the business or service, in which case paragraph (i) applies:
- (4) In Schedule 7, Part 2, item relating to clause 23, third column, after paragraph (i), insert:
  - (ia) when at the premises of a close-proximity business or service, but only so far as is reasonably practicable, and unless the person is a worker at the business or service, in which case paragraph (j) applies:
- (5) In Schedule 7, Part 2, item relating to clause 23, third column, after paragraph (j), insert:
  - (ja) when at a permitted gathering, unless—
    - (i) the person is a worker at the permitted gathering, in which case paragraph (k) applies; or
    - (ii) the gathering is held at a private dwellinghouse; or
    - (iii) the gathering is held in a defined space or premises of a workplace (other than a vehicle in use as part of a public transport service) being used exclusively for the gathering:
- (6) In Schedule 7, Part 2, item relating to clause 23, third column, insert as paragraph (2):
  - (2) For the purposes of clause 23, when a person is carrying out vaccine-mandate work,—
    - (a) they must comply with the face covering rule, but only so far as is reasonably practicable and only—
      - (i) when working with members of the public, customers, or clients in the course of carrying out the vaccine-mandate work; or
      - (ii) when on premises where the vaccine-mandate work is carried out, and only on the parts of the premises that are open to the public; and
    - (b) the type of face covering they must wear for the purpose of the face covering rule (*see* clause 11(2)) is a medical-grade face covering, unless this order expressly provides otherwise.
- (7) In Schedule 7, Part 2, after the item relating to clause 53, insert:
  - cl 54A Specified EOTC events permitted
- (8) In Schedule 7, Part 2, item relating to clause 74, third column, after paragraph (2), insert:

(3) For the purposes of clause 74(1)(b), when a person described in that paragraph is carrying out vaccine-mandate work, the type of face covering they must wear for the purpose of the face covering rule (*see* clause 11(2)) is a medical-grade face covering.

(9) In Schedule 7, Part 2, after the item relating to clause 74, insert:

cl 74A How CVC requirements apply to education outside the classroom services

Clause 17(4) new paragraph (ia): amended, at 11.58 pm on 3 February 2022, by clause 4(1) of the COVID-19 Public Health Response (Protection Framework and Other Matters) Amendment Order 2022 Amendment Order 2022 (SL 2022/8).

Clause 17(5) new paragraph (ja)(iii): amended, at 11.58 pm on 3 February 2022, by clause 4(2) of the COVID-19 Public Health Response (Protection Framework and Other Matters) Amendment Order 2022 Amendment Order 2022 (SL 2022/8).

## Part 2

### Amendment to COVID-19 Public Health Response (Air Border) Order 2021

#### 18 Principal order

This Part amends the COVID-19 Public Health Response (Air Border) Order 2021.

#### 19 Clause 28 amended (Must wear face covering in certain places or circumstances)

Replace clause 28(4) with:

- (4) In this clause, **face covering** means,—
- (a) for a person who is carrying out vaccine-mandate work, a medical-grade face covering (as those terms are defined in clause 5(1) of the COVID-19 Public Health Response (Protection Framework) Order 2021); and
  - (b) in any other case, a covering of any type that—
    - (i) covers the nose and mouth of a person; and
    - (ii) is secured to the person’s head by ear loops or a head loop.

## Part 3

### Amendment to COVID-19 Public Health Response (Air Border) Order (No 2) 2020

#### 20 Principal order

This Part amends the COVID-19 Public Health Response (Air Border) Order (No 2) 2020.



**21 Clause 8B amended (Obligations on persons on QFT flights)**

In clause 8B(6), replace the definition of **face covering** with:

**face covering** means,—

- (a) whenever the person is carrying out vaccine-mandate work, a medical-grade face covering (as those terms are defined in clause 5(1) of the COVID-19 Public Health Response (Protection Framework) Order 2021); and
- (b) in any other case, a covering of any type that—
  - (i) covers the nose and mouth of a person; and
  - (ii) is secured to the person’s head by ear loops or a head loop

**Part 4**

**Amendment to COVID-19 Public Health Response (Isolation and Quarantine) Order 2020**

**22 Principal order**

This Part amends the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020.

**23 Clause 15GC amended (Remaining at place of self-isolation and other restrictions)**

In clause 15GC(8), replace the definition of **face covering** with:

**face covering** means a covering of any type that—

- (a) covers the nose and mouth of a person; and
- (b) is secured to the person’s head by ear loops or a head loop.

Dated at Wellington this 1st day of February 2022.

Hon Chris Hipkins,  
Minister for COVID-19 Response.

**Explanatory note**

*This note is not part of the order, but is intended to indicate its general effect.*

This order amends the COVID-19 Public Health Response (Protection Framework) Order 2021 (the **principal order**) and makes related amendments to other COVID-19 orders. This order comes into force at 11.59 pm on 3 February 2022.

*Amendments relating to face covering rule*

The principal order is amended to—

- extend the application of the face covering rule at Red; and
- strengthen the minimum requirements for the face covering that a person must wear to comply with the face covering rule, if it applies to them.

As amended, the principal order now applies the face covering rule at Red to—

- persons who are between 8 and 12 years of age, or who are younger than 8 years of age but are students in year 4 or above, but only when they are on school transport services or public transport services (*clause 17(1) and (2)*). Currently, the face covering rule applies to persons who are younger than 12 years of age only if they are students at a registered school and while they are indoors at an education entity: *see clause 74 of the principal order as applied in Part 2 of Schedule 7 of that order*:
- everyone at the premises of food and drink businesses or services or close-proximity businesses or services, rather than just workers at those businesses or services, as is currently the case (*clause 17(3) and (4)*):
- everyone at a permitted gathering, rather than just workers at permitted gatherings, as is currently the case (*clause 17(5)*), unless the permitted gathering is held—
  - at a private dwellinghouse; or
  - in a defined space or premises of a workplace that has been hired for the exclusive use of the gathering by a person (with some exceptions):
- persons who carry out work to which a vaccine mandate applies (*clause 17(6)*) (*see the COVID-19 Public Health Response (Vaccinations) Order 2021 and the COVID-19 Public Health Response (Specified Work Vaccinations) Order 2021*).

Face coverings must now, at a minimum, cover a person's nose and mouth and be secured to their head by ear loops or a head loop (*clause 5*). An active COVID-19 response schedule may specify that a different type of face covering is required to comply with the face covering rule. At Red, a person must wear a medical-grade face covering when they are carrying out work to which a vaccine mandate applies, including in education entities (*clause 17(6) and (8)*).

*Clauses 13 and 14* amend clauses 103 and 104 of the principal order. Those clauses exempt certain classes of person from the order as a whole. As amended, those clauses no longer exempt a person from complying with the face covering rule while carrying out work to which a vaccine mandate applies.

*Parts 2 to 4* of this order amend the COVID-19 Public Health Response (Air Border) Order 2021, the COVID-19 Public Health Response (Air Border) Order (No 2) 2020, and the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020. Those orders also require people to wear face coverings in certain places or circumstances. The definitions of face covering in those orders are updated to align them

with the definition of face covering in the principal order (*see* clause 11 of the principal order as amended by *clause 5* of this order).

*Amendments relating to education outside the classroom services*

The principal order is amended to—

- permit an event (a **specified EOTC event**) to be held in a defined space without a fixed capacity cap if—
  - the person in control of the event is providing education outside the classroom services in the defined space; and
  - the defined space is used exclusively for the purpose of education outside the classroom services for the duration of the event; and
  - everyone at the event is either a student participating in the event or CVC compliant (*see new clause 54A* as inserted by *clause 10*); and
- permit a regulated business or service that is an education outside the classroom service to operate, in a defined space where a specified EOTC event is held, in accordance with *new clause 54A* instead of the rules that would otherwise apply to it as a regulated business or service (*see new clauses 25(2A) and 74A* of the principal order as inserted by *clauses 7 and 12*).

*Clauses 15, 16, and 17(7) and (9)* amend *Schedules 5 to 7* to provide that the amendments relating to education outside the classroom services apply at Red, Orange, and Green.

*Approval by resolution required*

This order must be approved by resolution of the House of Representatives before the expiry of the period described in section 16(2) of the COVID-19 Public Health Response Act 2020. If this does not happen, the order is revoked on the expiry of that period.

Issued under the authority of the Legislation Act 2019.  
Date of notification in *Gazette*: 1 February 2022.

## Notes

### **1** *General*

This is a consolidation of the COVID-19 Public Health Response (Protection Framework and Other Matters) Amendment Order 2022 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 (Protection Framework and Other Matters) Amendment Order 2022 Amendment Order 2022 (SL 2022/8)