



## **COVID-19 Public Health Response (Infringement Offences) Amendment Order 2021**

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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**Order****1 Title**

This order is the COVID-19 Public Health Response (Infringement Offences) Amendment Order 2021.

**2 Commencement**

This order comes into force on 4 December 2021.

**Part 1**  
**Amendments to COVID-19 Public Health Response (Air Border)**  
**Order (No 2) 2020**

**3 Principal order**

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

**4 Clause 7E amended (Vaccination requirements for person arriving in New Zealand by air)**

Revoke clause 7E(4).

**5 Clause 8 amended (General obligations on persons arriving in New Zealand by air)**

Revoke clause 8(4A).

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

Revoke clause 8B(5) and the heading above clause 8B(5).

**7 New Part 4 inserted**

After Part 3, insert:

**Part 4**  
**Infringement offences**

**28 Infringement offences**

- (1) A breach of clause 7E(2)(a) or (b), 8(2A) or (2B), or 8B(1AAA), (1), (2), or (4) is an infringement offence for the purposes of section 26(3) of the Act.
- (2) An infringement offence against—
  - (a) clause 7E(2)(a) or 8B(1AAA) is a high risk offence;
  - (b) clause 8(2A) or (2B)(a) or 8B(1) or (2) is a medium risk offence;
  - (c) clause 7E(2)(b), 8(2B)(b) or 8B(4) is a low risk offence.
- (3) The penalties for the offences are set out in regulation 5(2) and (3) of the COVID-19 Public Health Response (Infringement Offences) Regulations 2021 for those classes of offence.
- (4) In this clause,—

**high risk offence** means the high risk class of infringement offence prescribed by regulation 5(1) of the COVID-19 Public Health Response (Infringement Offences) Regulations 2021

**low risk offence** means the low risk class of infringement offence prescribed by regulation 5(1) of the COVID-19 Public Health Response (Infringement Offences) Regulations 2021

**medium risk offence** means the medium risk class of infringement offence prescribed by regulation 5(1) of the COVID-19 Public Health Response (Infringement Offences) Regulations 2021.

## Part 2

### Amendments to COVID-19 Public Health Response (Isolation and Quarantine) Order 2020

#### 8 Principal order

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

#### 9 Clause 4 amended (Interpretation)

In clause 4(1), insert in its appropriate alphabetical order:

**Act** means the COVID-19 Public Health Response Act 2020

#### 10 New Part 3 inserted

After Part 2, insert:

### Part 3 Infringement offences

#### 19 Interpretation

In this Part,—

**high risk offence** means the high risk class of infringement offence prescribed by regulation 5(1) of the COVID-19 Public Health Response (Infringement Offences) Regulations 2021

**medium risk offence** means the medium risk class of infringement offence prescribed by regulation 5(1) of the COVID-19 Public Health Response (Infringement Offences) Regulations 2021.

#### 20 Infringement offences

- (1) A breach of clause 8, 15D, 17, or 18 is an infringement offence for the purposes of section 26(3) of the Act.
- (2) An infringement offence against—
  - (a) clause 8, 15D, or 18 is a high risk offence:
  - (b) clause 17 is a medium risk offence.

- (3) The penalties for the offences are set out in regulation 5(2) and (3) of the COVID-19 Public Health Response (Infringement Offences) Regulations 2021 for those classes of offence.

### **Part 3**

#### **Amendments to COVID-19 Public Health Response (Maritime Border) Order (No 2) 2020**

**11 Principal order**

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

**12 Clause 21 amended (Person may disembark to undertake essential task)**

Revoke clause 21(3).

**13 Clause 24 amended (Ships in isolation or quarantine)**

Revoke clause 24(5).

**14 Clause 29 amended (Requirements relating to crew members who travel to or from security designated aerodrome, ship, or place of isolation or quarantine)**

Revoke clause 29(2).

**15 New Part 4A inserted**

After Part 4, insert:

#### **Part 4A Infringement offences**

**29A Infringement offences**

- (1) A breach of clause 21(2)(a) or (b), 24(2), (4), or (4A), or 29(1)(a) or (b) is an infringement offence for the purposes of section 26(3) of the Act.
- (2) An infringement offence against—
- (a) clause 21(2)(a) or (b), 24(2), or 29(1)(a) or (b) is a high risk offence:
  - (b) clause 24(4) or (4A) is a medium risk offence.
- (3) The penalties for the offences are set out in regulation 5(2) and (3) of the COVID-19 Public Health Response (Infringement Offences) Regulations 2021 for those classes of offence.
- (4) In this clause,—

**high risk offence** means the high risk class of infringement offence prescribed by regulation 5(1) of the COVID-19 Public Health Response (Infringement Offences) Regulations 2021

**medium risk offence** means the medium risk class of infringement offence prescribed by regulation 5(1) of the COVID-19 Public Health Response (Infringement Offences) Regulations 2021.

## Part 4

### Amendments to COVID-19 Public Health Response (Required Testing) Order 2020

#### 16 Principal order

This Part amends the COVID-19 Public Health Response (Required Testing) Order 2020.

#### 17 Clause 15 amended (Infringement offences)

In clause 15, insert as subclauses (2) to (4):

- (2) An infringement offence against—
  - (a) clause 7, 10, 12C, 12D, or 13 is a high risk offence:
  - (b) clause 11 is a medium risk offence:
  - (c) clause 14 is a low risk offence.
- (3) The penalties for the offences are set out in regulation 5(2) and (3) of the COVID-19 Public Health Response (Infringement Offences) Regulations 2021 for these classes of offence.
- (4) In this clause,—

**high risk offence** means the high risk class of infringement offence prescribed by regulation 5(1) of the COVID-19 Public Health Response (Infringement Offences) Regulations 2021

**low risk offence** means the low risk class of infringement offence prescribed by regulation 5(1) of the COVID-19 Public Health Response (Infringement Offences) Regulations 2021

**medium risk offence** means the medium risk class of infringement offence prescribed by regulation 5(1) of the COVID-19 Public Health Response (Infringement Offences) Regulations 2021.

**Part 5**  
**Amendments to COVID-19 Public Health Response (Vaccinations)**  
**Order 2021**

**18 Principal order**

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

**19 Clause 13 replaced (Infringement offence)**

Replace clause 13 with:

**13 Infringement offences**

- (1) A breach of clause 7, 8, 10, 11, or 11A is an infringement offence for the purposes of section 26(3) of the COVID-19 Public Health Response Act 2020.
- (2) An infringement offence against—
  - (a) clause 7 or 8 is a high risk offence:
  - (b) clause 10(1), (2), (2A), (3), or (4) is a medium risk offence:
  - (c) clause 10(5), 11, or 11A is a low risk offence.
- (3) The penalties for the offences are set out in regulation 5(2) and (3) of the COVID-19 Public Health Response (Infringement Offences) Regulations 2021 for those classes of offence.
- (4) In this clause,—

**high risk offence** means the high risk class of infringement offence prescribed by regulation 5(1) of the COVID-19 Public Health Response (Infringement Offences) Regulations 2021

**low risk offence** means the low risk class of infringement offence prescribed by regulation 5(1) of the COVID-19 Public Health Response (Infringement Offences) Regulations 2021

**medium risk offence** means the medium risk class of infringement offence prescribed by regulation 5(1) of the COVID-19 Public Health Response (Infringement Offences) Regulations 2021.

Dated at Wellington this 1st day of December 2021.

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, which comes into force on 4 December 2021, makes amendments concerning infringement offences to the following orders (the **principal orders**):

- COVID-19 Public Health Response (Air Border) Order (No 2) 2020 (the **Air Border Order**):
- COVID-19 Public Health Response (Isolation and Quarantine) Order 2020 (the **Isolation and Quarantine Order**):
- COVID-19 Public Health Response (Maritime Border) Order (No 2) 2020 (the **Maritime Border Order**):
- COVID-19 Public Health Response (Required Testing) Order 2020 (the **Required Testing Order**):
- COVID-19 Public Health Response (Vaccinations) Order 2021 (the **Vaccinations Order**).

The main purpose of the amendments is to assign each infringement offence in the principal orders to 1 of the 3 infringement offence classes established by the COVID-19 Public Health Response (Infringement Offences) Regulations 2021 (the **regulations**) for the purposes of section 26(3) of the COVID-19 Public Health Response Act 2020. The 3 classes are high risk, medium risk, and low risk and are defined by reference to how likely the offence is to lead to the transmission and spread of COVID-19.

The class that an infringement offence is assigned to determines which penalties apply to it under the regulations, with high risk offences having the highest potential infringement fees and fines for offenders and low risk offences having the lowest potential penalties.

The infringement fees (fees that can be imposed on an offender by infringement notice) for each class of infringement offence are prescribed by the regulations as follows:

<b>Class of offence</b>	<b>Fee: individual (\$)</b>	<b>Fee: any other person (\$)</b>
Low risk	500	1,500
Medium risk	1,000	4,000
High risk	4,000	12,000

The maximum fines (fines that may be imposed instead of infringement fees if the matter goes to court) for each class of infringement offence are prescribed by the regulations as follows:

<b>Class of offence</b>	<b>Fine: individual (\$)</b>	<b>Fine: any other person (\$)</b>
Low risk	1,500	4,500
Medium risk	4,000	12,000
High risk	12,000	15,000



This order also—

- amends the Isolation and Quarantine Order to specify the breaches of that order that are infringement offences for the purposes of section 26(3) of the COVID-19 Public Health Response Act 2020; and
- makes minor and consequential drafting adjustments to some of the principal orders.

### *Part 1*

*Part 1* amends the Air Border Order. The amendments assign the existing infringement offences in the Air Border Order to infringement offence classes as follows:

- breaches of the following provisions of the Air Border Order are high risk offences:
  - clause 7E(2)(a), which requires certain people arriving in New Zealand by air to have been fully vaccinated against COVID-19 at least 14 days before travel:
  - clause 8B(1AAA), which provides that people must not arrive in New Zealand by quarantine-free travel flight unless they qualify for an exemption from the usual isolation and quarantine requirements for travellers arriving by air:
- breaches of the following provisions of the Air Border Order are medium risk offences:
  - clause 8(2A), which requires people arriving in New Zealand by air to have a confirmed managed isolation or quarantine allocation and to provide evidence of the allocation on request:
  - clause 8(2B)(a), which requires them to meet requirements as to COVID-19 testing and certification:
  - clause 8B(1) or (2), which requires people arriving on quarantine-free travel flights to wear face coverings:
- breaches of the following provisions of the Air Border Order are low risk offences:
  - clause 7E(2)(b), which requires people arriving in New Zealand by air to provide evidence on request that they meet the requirement as to vaccination 14 days before travel:
  - clause 8(2B)(b), which requires people arriving in New Zealand by air to provide evidence on request that they meet COVID-19 testing and certification requirements:
  - clause 8B(4), which requires people arriving in New Zealand by quarantine-free travel flight to provide evidence on request that they met the criteria for taking the flight and to answer officials' questions about their quarantine-free travel status.

### *Part 2*

*Part 2* amends the Isolation and Quarantine Order. The amendments specify which breaches of the Isolation and Quarantine Order are infringement offences and assign the infringement offences to classes as follows:

- breaches of the following provisions of the Isolation and Quarantine Order are high risk offences:
  - clause 8, which requires people in isolation or quarantine to wear personal protective equipment as directed and to maintain physical distancing:
  - clause 15D, which specifies self-isolation requirements for some air crew, medical attendants, and Police escorts working at New Zealand's air border:
  - clause 18, under which anyone who enters a managed isolation or quarantine facility unlawfully may be required to remain for a risk assessment:
- a breach of clause 17 of the Isolation and Quarantine Order, which restricts entry to managed isolation or quarantine facilities, is a medium risk offence.

### *Part 3*

*Part 3* amends the Maritime Border Order. The amendments assign the existing infringement offences in the Maritime Border Order to infringement offence classes as follows:

- breaches of the following provisions of the Maritime Border Order are high risk offences:
  - clause 21(2), which provides that anyone disembarking a ship with a person in isolation or quarantine on board (a **quarantine ship**) in order to carry out an essential task on or next to the ship must take reasonable steps to minimise the risk of spreading COVID-19 and must not carry out non-essential tasks while disembarked:
  - clause 24(2), which prohibits people from boarding a quarantine ship unless they are carrying out a necessary task:
  - clause 29, under which ship crew who are required to travel between ships, aerodromes, or places of isolation or quarantine must do so as quickly and directly as reasonably practicable and in accordance with directions:
- a breach of clause 24(4) or (4A) of the Maritime Border Order, under which a quarantine ship may be required to remain at a distance from other ships and the port company must make sure that isolation and quarantine signs are clearly displayed at the ship's exit points, is a medium risk offence.

#### *Part 4*

*Part 4* of this order amends the Required Testing Order. The amendments assign the existing infringement offences in the Required Testing Order to infringement offence classes as follows:

- breaches of the following provisions of the Required Testing Order are high risk offences:
  - clause 7, which requires certain people working in connection with airports, ports, aircraft, ships, or managed isolation or quarantine facilities to undergo testing and medical examination for COVID-19:
  - clause 10, which requires persons conducting a business or undertaking (PCBUs) employing or engaging those workers to take steps to support the workers' testing and medical examination:
  - clause 12C, which prohibits home-based education and care services from operating and certain workers from working onsite at schools, early childhood services, and hostels, unless requirements as to COVID-19 testing are met:
  - clause 12D(2), which allows unvaccinated operators of home-based education and care services to continue operating only until 1 January 2022 and only if everyone over the age of 12 years living in the home meets COVID-19 testing requirements:
  - clause 12D(3), which allows other unvaccinated school, hostel, and early childhood workers to continue working onsite only until 1 January 2022 and only if they meet COVID-19 testing requirements:
  - clause 13, which requires workers who choose to undergo recurring saliva testing for COVID-19 (**recurring saliva testing**) instead of testing and medical examination under section 7 to provide regular saliva samples:
- a breach of clause 11 of the Required Testing Order, which requires PCBUs to keep a record of their workers' compliance with medical and testing requirements and requires workers to provide information about their testing status, is a medium risk offence:
- a breach of clause 14, which requires workers who choose to undergo recurring saliva testing to notify the relevant PCBU of that choice and of any choice to discontinue recurring saliva testing, is a low risk offence.

#### *Part 5*

*Part 5* amends the Vaccinations Order. The amendments assign the existing infringement offences in the Vaccinations Order to infringement offence classes as follows:

- breaches of the following provisions of the Vaccinations Order are high risk offences:

- clause 7, which prohibits people from carrying out certain work, such as at managed isolation or quarantine facilities, unless they are vaccinated or have a COVID-19 vaccination exemption:
- clause 8, which requires relevant PCBUs to take steps to support their workers' vaccination and provides that the PCBUs must not allow anyone to carry out—
  - certain work unless the PCBU is satisfied they are vaccinated (or they are exempt); or
  - home-based education and care work unless the PCBU is satisfied that everyone over the age of 12 years living in the home is vaccinated:
- a breach of any of subclauses (1) to (4) of clause 10 of the Vaccinations Order, which require PCBUs to seek and share information about certain workers employed or engaged by them and about the workers' vaccination status, is a medium risk offence:
- breaches of the following provisions of the Vaccinations Order are low risk offences:
  - clause 10(5), which requires certain workers employed or engaged by PCBUs to provide the PCBUs with their name, date of birth, and telephone number:
  - clause 11, which requires certain workers to give the PCBUs access to their Ministry of Health COVID-19 vaccination records and provide information about any COVID-19 vaccinations received overseas (or provide confirmation of their COVID-19 vaccination exemption):
  - clause 11A, which requires PCBUs that employ or engage certain workers to keep records about the workers' vaccination status and requires the workers to provide the PCBUs with information for the records.

*Order revoked without resolution of House*

To continue in effect, this order must be approved by resolution of the House of Representatives before the expiry of the relevant 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 December 2021.  
This order is administered by the Ministry of Health.