

**Version
as at 27 February 2022**



**COVID-19 Public Health Response (Air Border) Order
(No 2) Amendment Order (No 11) 2021
(LI 2021/327)**

COVID-19 Public Health Response (Air Border) Order (No 2) Amendment Order (No 11) 2021:
revoked, at 11.59 pm on 27 February 2022, pursuant to clause 61(1)(a) of the COVID-19 Public
Health Response (Air Border) Order 2021 (SL 2021/427).

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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New Part 8 inserted into Schedule 1

Order

1 Title

This order is the COVID-19 Public Health Response (Air Border) Order (No 2) Amendment Order (No 11) 2021.

2 Commencement

- (1) Clause 5, new clause 7G, comes into force at 11.59 pm on 25 October 2021.
- (2) The rest of this order comes into force at 11.59 pm on 31 October 2021.

3 Principal order

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

4 Clause 4 amended (Interpretation)

In clause 4, insert in its appropriate alphabetical order:

New Zealand citizen has the meaning given by section 4 of the Immigration Act 2009

5 New Part 1B inserted

After Part 1A, insert:

Part 1B

Vaccination requirements

7E Vaccination requirements for person arriving in New Zealand by air

- (1) This clause applies to a person who arrives in New Zealand by air and who is not—
 - (a) an excepted person; or
 - (b) an exempt person.
- (2) The person must—
 - (a) satisfy the vaccination requirement at least 14 days before their journey to New Zealand began; and
 - (b) upon request, produce to any of the following persons evidence of having satisfied the vaccination requirement:
 - (i) a health protection officer:

- (ii) a staff member or representative of the relevant air carrier;
 - (iii) an immigration officer;
 - (iv) an enforcement officer.
- (3) The evidence required to be produced by a person under subclause (2) is confirmation of—
 - (a) a record of having received 1 or more COVID-19 vaccines that shows their name; and
 - (b) the name of the COVID-19 vaccine or vaccines they have received; and
 - (c) the name of the agency that administered the COVID-19 vaccine or vaccines; and
 - (d) the place where they received 1 or more doses of the COVID-19 vaccine or vaccines; and
 - (e) the date on which they received—
 - (i) the dose of the COVID-19 vaccine, if only 1 dose of the vaccine is required to be satisfy the vaccination requirement; or
 - (ii) each dose of the COVID-19 vaccine, if 2 or more doses of the vaccine are required to satisfy the vaccination requirement.
- (4) A failure to comply with this clause is an infringement offence (*see* section 26(3) and (4) of the Act).
- (5) In the clause,—

COVID-19 vaccine means a COVID vaccine specified by the Director-General by notice in the *Gazette*

excepted person means any of the following persons:

 - (a) a New Zealand citizen;
 - (b) a person under the age of 17 years;
 - (c) a person who has a certificate from a medical practitioner verifying the medical practitioner’s advice that, for medical reasons, the person should not receive a COVID-19 vaccine;
 - (d) a person travelling to New Zealand for the first time as the holder of a residence class visa granted to the person under any of the following immigration instructions:
 - (i) S3.22 (Requirements for grant of a permanent resident visa (mandated refugee));
 - (ii) S4.10 (Refugee Family Support Category);
 - (iii) S4.20 (Refugee Quota Family Reunification Category);
 - (iv) S4.25 (Community Organisation Refugee Sponsorship Category);
 - (e) a person who is a citizen of Afghanistan and arrives in New Zealand on or before 12 December 2022

exempt person means a person granted an exemption under clause 7G

Gazette notice means the *Gazette* notice referred to in the definition of COVID-19 vaccine

immigration instructions has the same meaning as in section 4 of the Immigration Act 2009

vaccination requirement, in relation to a person, means the requirement for the person to be vaccinated against COVID-19 by receiving all of the doses of a COVID-19 vaccine specified by—

- (a) the Director-General in the *Gazette* notice; or
- (b) the government of the country in which the person received their last dose of a COVID-19 vaccine.

7F Air carrier to take steps to obtain evidence of compliance with vaccination requirements

An air carrier must not cause an aircraft to arrive in New Zealand unless it has taken reasonable steps to ensure that each person on board the aircraft has evidence of—

- (a) having satisfied the vaccination requirement; or
- (b) being an excepted person; or
- (c) being an exempted person.

7G Director-General may grant exemption

- (1) The Director-General may, on the application of a person, exempt the person from the requirements in clause 7E(2).
- (2) The Director-General must not grant an exemption under subclause (1) unless the Director-General is satisfied that—
 - (a) the person has not satisfied the vaccination requirement because there is limited access to a COVID-19 vaccine in the place where the person has spent the 6 months before the date their journey to New Zealand began; or
 - (b) the person is travelling with a family member who is a New Zealand citizen and has not had sufficient time to satisfy the vaccination requirement before their journey to New Zealand began.
- (3) The Director-General must give the applicant written notice of the outcome of the application.
- (4) In this clause,—

dependent child has the same meaning as in section 4 of the Immigration Act 2009

family member in relation to a person, means—

- (a) a spouse, civil union partner, or de facto partner of the person:

- (b) a dependent child of the person:
- (c) a parent of the person:
- (d) a sibling of the person.

6 Clause 11 amended (Diplomatic and consular officials, and New Zealand Defence Force)

In clause 11, replace “clause 8” with “clauses 7E and 8”.

7 Clause 13 amended (Arrivals from Antarctica)

(1) In clause 13(1), replace “clause 8” with “clauses 7E and 8”.

(2) Replace clause 13(3) with:

(3) For the purposes of subclause (2), an assessment must be made—

- (a) not earlier than 7 days before the person’s arrival in New Zealand; or
- (b) after the person’s arrival in New Zealand.

8 Clause 18A amended (New Zealand citizens and certain related persons)

In clause 18A(2), revoke the definition of **New Zealand citizen**.

9 Schedule 1 amended

In Schedule 1,—

- (a) insert the Part set out in the Schedule of this order as the last Part; and
- (b) make all necessary consequential amendments.

Schedule

New Part 8 inserted into Schedule 1

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Part 8

Provisions relating the COVID-19 Public Health Response (Air Border) Order (No 2) Amendment Order (No 11) 2021

7 Flights departing before commencement of Amendment Order

(1) Part 1B, as inserted by the Amendment Order, does not apply to a person who arrives in New Zealand on an aircraft that departed before the commencement of the Amendment Order.

(2) In this clause, **Amendment Order** means the COVID-19 Public Health Response (Air Border) Order (No 2) Amendment Order (No 11) 2021.

Dated at Wellington this 23rd day of October 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 amends the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 (the **principal order**). It comes into force at 11.59 pm on 31 October 2021, except that the provision enabling the Director-General of Health to grant exemptions (*new clause 7G* inserted into the principal order) comes into force earlier, at 11.59 pm on 25 October 2021.

The effect of the amendments is to require—

- persons arriving in New Zealand by air to satisfy the vaccination requirement at least 14 days before their journey to New Zealand began and to produce, if requested, evidence of this:
- air carriers to take reasonable steps to ensure that, before an aircraft arrives in New Zealand, everyone on board has evidence of having satisfied the vaccination requirement, or of being an excepted or exempted person.

A person satisfies the vaccination requirement if they are vaccinated against COVID-19 by receiving all of the doses of a COVID-19 vaccine specified by the

Director-General of Health in a *Gazette* notice or by the government of the country in which the person received their last dose of a COVID-19 vaccine.

These new requirements do not apply to—

- New Zealand citizens:
- persons under the age of 17 years:
- persons who have a certificate from a medical practitioner verifying that, for medical reasons, the person should not receive a vaccine:
- persons travelling to New Zealand for the first time as the holder of a residence class visa granted under a specified immigration instruction relating to refugees.

The new requirements also do not apply to a person who is granted an exemption by the Director-General in any case where the Director-General is satisfied that the person has been unable to access a COVID-19 vaccine in the place where they have spent the 6 months before their journey to New Zealand began, or the person is travelling with a family member who is a New Zealand citizen and has not had sufficient time before their journey to New Zealand began to satisfy the vaccination requirement.

A breach of the requirement is an infringement offence under section 26(3) of the COVID-19 Public Health Response Act 2020 (the **Act**) for which a person is liable to an infringement fee of \$300 or a fine not exceeding \$1,000.

This order must be approved by resolution of the House of Representatives before the end of the relevant period described in section 16(2) of the Act. If this does not happen, the order is revoked at the end of that period.

Issued under the authority of the Legislation Act 2019.
Date of notification in *Gazette*: 23 October 2021.

Notes

1 *General*

This is a consolidation of the COVID-19 Public Health Response (Air Border) Order (No 2) Amendment Order (No 11) 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 (Air Border) Order 2021 (SL 2021/427): clause 61(1)(a)