

**Version
as at 12 September 2022**



COVID-19 Public Health Response (Protection Framework) Amendment Order (No 2) 2021

(SL 2021/414)

COVID-19 Public Health Response (Protection Framework) Amendment Order (No 2) 2021: revoked, at 11.59 pm on 12 September 2022, pursuant to clause 11 of the COVID-19 Public Health Response (Masks) Order 2022 (SL 2022/255).

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) Amendment Order (No 2) 2021.

2 Commencement

- (1) This order comes into force at 11.59 pm on 12 December 2021.
- (2) However, Part 4 and the Schedule come into force at 11.59 pm on 14 December 2021.

Part 1

Preliminary provisions

3 Principal order

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

4 Clause 5 amended (Interpretation)

- (1) In clause 5(1), definition of **close-proximity business or service**, replace paragraphs (b) and (c) with:
 - (b) includes—
 - (i) a certified playgroup; and
 - (ii) an OSCAR programme delivered at premises other than the premises of a registered school; but
 - (c) excludes—
 - (i) professional and semi-professional sports; and
 - (ii) specified social services; and
 - (iii) education entities
- (2) In clause 5(1), insert in its appropriate alphabetical order:
COVID-19 test has the meaning given in clause 96(5)

- (3) In clause 5(1), replace the definition of **licensed early childhood service** with:
licensed early childhood service has the same meaning as in section 10(1) of the Education and Training Act 2020
- (4) In clause 5(1), revoke the definition of **travel condition**.

Part 2

Amendments to Part 2 (COVID-19 provisions)

5 Clause 27 amended (Regulated business or service must have systems and processes to check person carries CVC and to verify CVC compliance)

After clause 27(2)(b), insert:

- (ba) are subject to clause 32(2) and (3); and

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

Replace clause 28(2) with:

- (2) Subclause (1) does not apply to—
- (a) an affected worker if those premises are their workplace; or
- (b) a person to whom clause 31(2)(a) applies.

7 Clause 29 amended (Person must produce CVC when requested at regulated premises that are CVC-only)

In clause 29(3)(b), replace “and (b)” with “or (b)”.

8 Clause 31 amended (Person must not be denied access to certain premises on vaccination grounds)

After clause 31(4), insert:

- (4A) Subclause (1) is subject to clause 98A (which relates to public transport services on certain routes).

9 Clause 32 amended (Person must not be denied access to goods or services from certain premises on vaccination grounds)

After clause 32(4), insert:

- (5) Subclause (1) is subject to clause 98A (which relates to public transport services on certain routes).

10 Clause 68 amended (Businesses or services must comply with no consumption of food or drink requirement)

In the heading to clause 68, replace “**Businesses or services must**” with “**Business or service must have systems and processes to**”.

11 Clause 70 amended (Businesses or services must have systems and processes to prevent sale of food or drink requiring work on premises)

In the heading to clause 70, replace “Businesses or services” with “Business or service”.

12 Clause 89 amended (Person must not travel out of area unless undertaking permitted travel)

(1) Replace clause 89(1) with:

(1) A person must not travel out of the area except when undertaking permitted travel.

Examples

A resident of the area is in the area. The resident must not travel out of the area except when undertaking permitted travel.

A person from another area crosses the boundary to visit the area. The person must not travel back out of the area except when undertaking permitted travel.

(2) In clause 89(2), replace “across the boundary of” with “out of”.

(3) In clause 89(4), replace “clause 91, 92, or 93” with “any of clauses 90A to 93”.

13 Clause 90 amended (Person must not undertake cross-boundary travel unless permitted (restrictive setting))

After clause 90(1), insert:

Examples

A resident of the area is outside the area. The resident must not travel into the area except when undertaking permitted travel.

A person from another area wishes to cross the boundary to visit the area. They may only do so if undertaking permitted travel. Once inside the area, the person may only leave if undertaking permitted travel.

14 Cross-heading above clause 91 amended

In the cross-heading above clause 91, replace “*Cross-boundary travel*” with “*Travel permissions*”.

15 New clauses 90A and 90B inserted

Before clause 91, insert:

90A Travel out of area permitted if person is CVC compliant

A person is permitted to travel out of the area if the person is CVC compliant.

90B Travel out of area permitted if person has evidence of negative COVID-19 test result

(1) A person is permitted to travel out of the area if they meet the requirements of subclause (2).

- (2) The person must carry evidence of—
- (a) a negative result from a COVID-19 test administered no more than 72 hours before their journey began; or
 - (b) a certificate that verifies that the person was examined by a medical practitioner no more than 72 hours before their journey began and that the person—
 - (i) was determined to have particular physical or other needs that made it inappropriate for the person to undergo a COVID-19 test; and
 - (ii) did not exhibit symptoms of COVID-19.
- (3) In this clause, **COVID-19 test** and **certificate** have the meanings given in clause 96.

16 Clause 92 amended (Cross-boundary travel permitted if person has evidence of negative COVID-19 test result)

After clause 92(2), insert:

- (3) In this clause, **COVID-19 test** and **certificate** have the meanings given in clause 96.

17 New clauses 92A and 92B inserted

After clause 92, insert:

92A Travel out of area for specified purposes permitted but travel conditions may apply

- (1) A person is permitted to travel out of the area if—
- (a) the travel is for 1 or more of the purposes specified in an active COVID-19 response schedule for the purposes of this paragraph; and
 - (b) the person, so far as is reasonably practicable, travels directly without stopping while in any other area (except for the purpose of that travel described under paragraph (a) or for a permitted airport transfer); and
 - (c) the person complies with the travel conditions (if any) specified in an active COVID-19 response schedule for the purposes of this paragraph.
- (2) In this clause, **permitted airport transfer** means a stop by a person at an airport for the purpose of transferring to an aircraft to go to another place in New Zealand or outside New Zealand, but only if—
- (a) the person does not leave the airport except to board a departing flight or to stay in temporary accommodation; and
 - (b) the person's departing flight is scheduled to depart within 24 hours after the person enters the airport.

92B Travel out of area permitted if person does not stop in that area

A person is permitted to travel out of the area if—

- (a) the person travels into, through, and out of that area in 1 trip; and
- (b) neither the person’s place of departure nor their destination is in that area; and
- (c) it is necessary to travel through that area to get to the person’s destination; and
- (d) the person carries evidence of the location of their destination.

18 Cross-heading above clause 93 amended

In the cross-heading above clause 93, replace “*Cross-boundary travel*” with “*Travel permissions*”.

19 Clause 96 amended (Person must carry evidence of negative COVID-19 test result)

Replace clause 96(5) with:

- (5) In this order, **COVID-19 test** means any applicable examination or test (or both) for COVID-19 that the Director-General has specified.
- (6) In this clause,—
certificate means—
 - (a) written verification provided by the medical practitioner who carried out the examination; or
 - (b) any other appropriate evidence that the Director-General has specified**Director-General has specified**, in relation to a certificate or COVID-19 test, means specified by the Director-General in a notice published—
 - (a) on a publicly accessible Internet site maintained by or on behalf of the New Zealand Government; and
 - (b) in the *Gazette*.

20 Clause 97 amended (Person must carry evidence of having had COVID-19 test (non-work activities))

After clause 97(4), insert:

- (5) In this clause, **COVID-19 test** and **certificate** have the meanings given in clause 96.

21 Clause 98 amended (Person must carry evidence of having had COVID-19 test (work activities))

After clause 98(4), insert:

- (5) In this clause, **COVID-19 test** and **certificate** have the meanings given in clause 96.

22 New clause 98A inserted (Person on public transport service out of area must carry CVC or evidence of negative COVID-19 test)

After clause 98, insert:

98A Person on public transport service out of area must carry CVC or evidence of negative COVID-19 test

- (1) A person boarding a public transport service in the area on a route that ends out of the area must carry—
 - (a) a CVC; or
 - (b) evidence of—
 - (i) a negative result from a COVID-19 test administered no more than 72 hours before their journey began; or
 - (ii) a certificate that verifies that the person was examined by a medical practitioner no more than 72 hours before their journey began and that the person—
 - (A) was determined to have particular physical or other needs that made it inappropriate for the person to undergo a COVID-19 test; and
 - (B) did not exhibit symptoms of COVID-19.
- (2) The person must, when requested by the public transport operator or their representative, produce the CVC or evidence.
- (3) If evidence (including evidence of a CVC) is handed over in accordance with a request under subclause (2), the public transport operator or representative must ensure that the evidence is immediately returned to the person who produced it after the evidence has been inspected.
- (4) If a person fails to comply with subclause (2),—
 - (a) the public transport operator or their representative may deny the person entry or access to the public transport service; and
 - (b) clauses 31(1) and 32(1) do not apply.
- (5) However, this clause does not apply to a person under the age of 12 years and 3 months.
- (6) In this clause, **COVID-19 test** and **certificate** have the meanings given in clause 96.

Part 3**Amendments to Schedule 3 (purposes for which cross-boundary travel is permitted and related travel conditions)****23 Schedule 3 amended**

In Schedule 3, replace item 1 with:

1	Go to or carry out work for any of the following businesses or services and, if necessary, stay in no more than 1 place as temporary accommodation: (a) any category 1 business or service other than— (i) item 39 of Schedule 2 (retail greengrocers, butchers, or fishmongers): (ii) item 52 of Schedule 2 (specified in-home services): (b) any in-home service to the extent that the service is provided to a person (A) at A's home or place of residence relating to the delivery, installation, or maintenance of goods that are necessary for A's health or safety (for example, the maintenance of kitchen appliances): (c) the essential operations of— (i) the Golden Bay Cement manufacturing plant in Portland, Whangarei: (ii) New Zealand Steel	The person must comply with— (a) clause 95 (person must carry evidence of purpose); and (b) clause 98 (person must carry evidence of having had COVID-19 test (work activities)).
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Part 4
**Amendments to Schedule 8 (travelling in and out of extended
Auckland area) that come into force at 11.59 pm on 14 December
2021**

24 Schedule 8 amended

- (1) In Schedule 8, after clause 1(1)(c), insert:

(d) to any other place if necessary for the purpose of the requirements that apply under a travel permission.
- (2) In Schedule 8, after clause 1(3), insert:

(4) In this clause, **travel permission** means travel of a kind that is permitted by this schedule (through the specification of any of clauses 90A to 94).
- (3) Replace Part 2 of Schedule 8 with the Part 2 set out in Part 1 of the Schedule of this order.

- (4) After Part 2 of Schedule 8 (as replaced by subclause (3)), insert the Part 2A set out in Part 2 of the Schedule of this order.

Schedule
New Parts 2 and 2A of Schedule 8 inserted

cl 24

Part 1
Part 2 replaced

Part 2
COVID-19 provisions that have effect

Clause	Brief description	Modification
	<i>Cross-boundary travel: Overview</i>	
cl 89	Person must not travel out of area unless undertaking permitted travel	
	<i>Permitted travel</i>	
cl 90A	Travel out of area permitted if person is CVC compliant	
cl 90B	Travel out of area permitted if person has evidence of negative COVID-19 test result	
cl 92A	Travel out of area for specified purposes permitted but travel conditions may apply (<i>see</i> Part 2A of this schedule)	For the purposes of clause 92A(1)(a), the specified purposes are set out in the second column of Part 2A of this schedule. For the purposes of clause 92A(1)(c), the travel conditions that must be complied with by a person travelling for a specified purpose are set out in the third column of Part 2A of this schedule.
cl 92B	Travel out of area permitted if person does not stop in that area	
	<i>Travel conditions</i>	
cl 98A	Person on public transport service on route out of area must carry CVC or evidence of negative COVID-19 test	Clause 98A applies only to a person who is relying on clause 90A or 90B.
	<i>Other requirements</i>	
cl 99	Business or service must minimise cross-boundary travel undertaken by workers	Clause 99 applies only to a business or service to the extent that workers of the business or service will undertake travel in reliance on clause 92A.
cl 100	Certain businesses or services must facilitate testing and medical examination for workers undertaking cross-boundary travel	Clause 100 applies only to a business or service— (a) that is referred to in item 1 of Part 2A of this schedule; and (b) to the extent that workers of that business or service will undertake travel in reliance on clause 92A.

Part 2

New Part 2A inserted

Part 2A

Specified purposes

Item	Specified purposes of travel	Travel conditions
<i>Working</i>		
1	<p>Go to or carry out work for any of the following businesses or services and, if necessary, stay in no more than 1 place as temporary accommodation:</p> <p>(a) any category 1 business or service other than—</p> <p style="padding-left: 20px;">(i) item 39 of Schedule 2 (retail greengrocers, butchers, or fishmongers):</p> <p style="padding-left: 20px;">(ii) item 52 of Schedule 2 (specified in-home services):</p> <p>(b) any in-home service to the extent that the service is provided to a person (A) at A's home or place of residence relating to the delivery, installation, or maintenance of goods that are necessary for A's health or safety (for example, the maintenance of kitchen appliances):</p> <p>(c) the essential operations of—</p> <p style="padding-left: 20px;">(i) the Golden Bay Cement manufacturing plant in Portland, Whangarei:</p> <p style="padding-left: 20px;">(ii) New Zealand Steel</p>	<p>The person must comply with—</p> <p>(a) clause 95 (person must carry evidence of purpose); and</p> <p>(b) clause 98 (person must carry evidence of having had COVID-19 test (work activities)).</p>
2	<p>Go to or carry out work for any of the following businesses or services and, if necessary, stay in no more than 1 place as temporary accommodation:</p> <p>(a) property relocation services for a person who is relocating their principal home or place of residence:</p> <p>(b) registered schools that students in years 9 to 13 are permitted to attend under a direction given by the chief executive of the Ministry of Education under Schedule 25 of the Education and Training Act 2020</p>	<p>The person must comply with—</p> <p>(a) clause 95 (person must carry evidence of purpose); and</p> <p>(b) clause 98 (person must carry evidence of having had COVID-19 test (work activities)).</p>
3	Undertake necessary work under clause 64(2) at premises of a business or service	The person must comply with—

Item	Specified purposes of travel	Travel conditions
	that are in the same or an adjacent area and, if necessary, stay in no more than 1 place as temporary accommodation	(a) clause 95 (person must carry evidence of purpose); and (b) clause 98 (person must carry evidence of having had COVID-19 test (work activities)).
4	If the person is a person referred to in clauses 102 to 104, go to or carry out work and, if necessary, stay in no more than 1 place as temporary accommodation	The person must comply with clause 95 (person must carry evidence of purpose).
<i>Care of children and others</i>		
5	Provide urgent care for a child, or provide care or support to a person in a critical or terminal condition, if no other appropriate person is able to provide that care or support in the area in which it is needed	
<i>Education</i>		
6	If the person is a student in years 0 to 13 at a registered school, attend that registered school	The person must comply with clause 95 (person must carry evidence of purpose).
<i>Emergencies</i>		
7	If necessary, preserve their own or any other person's life or safety	
<i>Going home after isolation or quarantine (or arrival) in New Zealand</i>		
8	Go to the person's principal home or place of residence (or intended principal home or place of residence) in New Zealand following— (a) the completion of their period of isolation or quarantine under the Isolation and Quarantine Order, the Maritime Border Order, or an order under section 70 of the Health Act 1956; or (b) if none of those orders apply to the person, their arrival in New Zealand	The person must comply with clause 95 (person must carry evidence of purpose).
<i>Going home</i>		
9	Return to the person's principal home or place of residence after travelling for any other specified purpose in this Part, if the person's principal home or place of residence is outside the area	The person must comply with clause 95 (person must carry evidence of purpose).
<i>Accompanying others</i>		
10	Accompany any person (person B) travelling for any other specified purpose in this Part, if it is reasonably necessary for them to accompany person B	The person must comply with the same travel conditions as person B.

Dated at Wellington this 10th 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 amends the COVID-19 Public Health Response (Protection Framework) Order 2021 (the **principal order**). *Part 4* and the *Schedule* of this order come into force at 11.59 pm on 14 December 2021. The rest of this order comes into force at 11.59 pm on 12 December 2021.

The main purpose of the amendments is to set new rules for travelling out of the extended Auckland area. The order does this by activating new COVID-19 provisions on and from 11.59 pm on 14 December 2021 (*see Part 1 of the Schedule* of this order). On and from that time,—

- most of the restrictions in the principal order on travel into the extended Auckland area will no longer apply:
- people in the extended Auckland area, including people who travel into that area, will be subject to rules before they can cross the boundary to go out of that area:
- people can travel out of the extended Auckland area if—
 - they are CVC compliant; or
 - they carry evidence of a negative result from a COVID-19 test administered no more than 72 hours before their journey began; or
 - they are travelling into, through, and out of the extended Auckland area without stopping; or
 - they are travelling for certain specified purposes and meet certain specified travel conditions (*see Part 2 of the Schedule* of this order):
- most people boarding a public transport service in the extended Auckland area on a route that ends out of that area will need to carry their CVC or evidence of a negative result from a COVID-19 test administered no more than 72 hours before their journey began, and produce their CVC or that evidence if asked to do so by the public transport operator or the public transport operator's representative. The requirement applies only to a person who is travelling out of the extended Auckland area in reliance on *new clause 90A or 90B*. If they do not produce their CVC or that evidence they may be denied access to the service (*see new clause 98A*, amendments to clauses 31 and 32, and *Part 1 of the Schedule* of this order):

- rules applying under clauses 99 and 100 remain for some businesses and services.

This order makes other amendments to the principal order that come into force at the earlier time of 11.59 pm on 12 December 2021, including—

- amending the definition of close-proximity business or service to ensure that OSCAR programmes delivered at premises other than the premises of a registered school are within that definition, and education entities are not;
- correcting the definition of licensed early childhood service;
- amending clauses 27 and 28 consequent on certain OSCAR programmes being included in the definition of close-proximity business or service, to remove a conflict between those clauses and clauses 31 and 32. Clauses 31 and 32 would prevail, so that persons under clause 31(2)(a) who were seeking access to education services at the premises of the OSCAR programme could not be denied entry, or access to the services, on vaccination grounds;
- amending clause 89 and inserting *new clauses 90A, 90B, 92A, 92B, and 98A* in anticipation of the new rules relating to travel out of the extended Auckland area that apply on and from 11.59 pm on 14 December 2021;
- amending Schedule 3 so that the cross-boundary travel purposes listed in that schedule are more in line with those under earlier alert level orders.

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*: 10 December 2021.

Notes

1 *General*

This is a consolidation of the COVID-19 Public Health Response (Protection Framework) Amendment Order (No 2) 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 (Masks) Order 2022 (SL 2022/255): clause 11