

Version
as at 30 June 2022



COVID-19 Public Health Response (Required Testing) Amendment Order (No 4) 2021

(LI 2021/316)

COVID-19 Public Health Response (Required Testing) Amendment Order (No 4) 2021: revoked, on 30 June 2022, pursuant to clause 3 of the COVID-19 Public Health Response (Required Testing) Order Revocation Order 2022 (SL 2022/193).

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.

Order

1 Title

This order is the COVID-19 Public Health Response (Required Testing) Amendment Order (No 4) 2021.

2 Commencement

This order comes into force at 11.59 pm on 17 October 2021.

3 Principal order

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

4 Clause 4 amended (Interpretation)

In clause 4, replace the definition of **affected person** with:

affected person,—

- (a) in Part 1A, means a person described in clause 12B; and
- (b) in the rest of this order, in relation to a place, means a person—
 - (i) who belongs to a group; and
 - (ii) who carries out work in any capacity (whether paid or unpaid) at the place

5 Clause 6 replaced (Application of order)

Replace clause 6 with:

6 Application of order

- (1) Part 1A applies to the alert level 3 area (as defined in clause 12A).
- (2) The rest of this order applies to the whole of New Zealand.

6 New Part 1A inserted

After Part 1, insert:

Part 1A

Testing requirements that apply to affected education services in alert level 3 area

12A Interpretation

In this Part, unless the context otherwise requires,—

affected education service means—

- (a) an early childhood service, but does not include a playgroup:

(b) a registered school:

(c) a hostel

affected person means a person described in clause 12B

alert level 3 area means the area that is for the time being described as such in clause 6 of the COVID-19 Public Health Response (Alert Level Requirements) Order (No 12) 2021

early childhood service has the same meaning as in section 10(1) of the Education and Training Act 2020

home-based education and care service has the same meaning as in section 10(1) of the Education and Training Act 2020

hostel has the same meaning as in section 10(1) of the Education and Training Act 2020

registered school has the same meaning as in section 10(1) of the Education and Training Act 2020

vaccinated has the same meaning as in clause 4 of the COVID-19 Public Health Response (Vaccinations) Order 2021.

12B Application of this Part

This Part applies to the following persons in the alert level 3 area:

- (a) every employee of an affected education service:
- (b) every person who performs work or provides a service at an affected education service, including a volunteer or an unpaid worker, who may have contact with children or students in the course of performing the work or providing the service:
- (c) in the case of a home-based education and care service, every person over the age of 12 years who resides in the home where the home-based education and care service is provided.

12C Affected persons required to return negative result from COVID-19 test

- (1) An affected person who is physically attending or performing work or providing a service onsite at an early childhood service, or a hostel, must provide to the relevant PCBU no later than 26 October 2021—
 - (a) a negative result from a test for COVID-19 obtained within the previous 5 days; or
 - (b) proof of a medical exemption under clause 8(1) from the requirement to undergo testing.
- (2) An affected person must not physically attend or perform work or provide a service onsite at an affected education service, other than a home-based education and care service, unless the person has provided to the relevant PCBU—

- (a) a negative result from a test for COVID-19 obtained within the previous 5 days; or
 - (b) proof of a medical exemption under clause 8(1) from the requirement to undergo testing.
- (3) An affected person who provides a home-based education and care service (the **operator**) must not provide the service after 26 October 2021 unless every affected person who resides in the home where the service is provided has provided to the operator's relevant PCBU—
- (a) a negative result from a test for COVID-19 obtained within the previous 5 days; or
 - (b) proof of a medical exemption under clause 8(1) from the requirement to undergo testing.

12D Weekly testing of affected persons not fully vaccinated

- (1) This clause applies to an affected person who—
- (a) meets the relevant testing requirement in clause 12C; but
 - (b) has not been vaccinated.
- (2) In the case of a home-based education and care service,—
- (a) before 1 January 2022, the affected person who provides the service (the **operator**) may continue to physically attend or perform work or provide a service onsite at the service; but
 - (b) paragraph (a) is subject to the condition that every affected person who resides in the home where the service is provided provides to the operator's relevant PCBU—
 - (i) a negative result from a test for COVID-19 at least once every 7 days until they have been vaccinated; or
 - (ii) proof of an exemption under clause 8(1) from the requirement to undergo testing.
- (3) Before 1 January 2022, any other affected person may continue to physically attend or perform work or provide a service onsite at an affected education service, subject to the condition that they provide to the relevant PCBU—
- (a) a negative result from a test for COVID-19 at least once every 7 days until they have been vaccinated; or
 - (b) proof of an exemption under clause 8(1) from the requirement to undergo testing.

12E Application of clauses 7, 9, 10, and 11

- (1) Clause 7 applies in relation to affected persons under this Part—
- (a) as if the testing centre referred to in clause 7(1)(a) were any community testing centre or other healthcare facility; and

- (b) as if the testing period referred to in clause 7(1)(b) and (3) were the period specified in clause 12D; and
- (c) with any other necessary modifications.
- (2) Clauses 8(1), 9, 10, and 11(1), (3), and (4) apply in relation to affected persons under this Part with the necessary modifications.
- (3) Clauses 8(2) to (5), 11(2), and 12 to 14 do not apply in relation to affected persons under this Part.

7 Clause 15 amended (Infringement offences)

In clause 15, after “clause 7, 10, 11,”, insert “12C, 12D,”.

Dated at Wellington this 15th 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 (Required Testing) Order 2020 (the **principal order**) and comes into force at 11.59 pm on 17 October 2021.

This order imposes COVID-19 testing requirements that apply to affected education services in the alert level 3 area. The affected education services are early childhood services (not including playgroups), registered schools, and hostels. The requirements are as follows:

- an affected person who is, from the time this order comes into force, physically attending or performing work or providing a service onsite at an early childhood service, or a hostel, must provide to the relevant PCBU no later than 26 October 2021 a negative result from a test for COVID-19 or proof of a medical exemption under clause 8(1) from the requirement to take a test:
- an affected person must not physically attend or perform work or provide a service onsite at an affected education service, other than a home-based education and care service, unless they have provided to the relevant PCBU a negative result from a test for COVID-19 or proof of a medical exemption obtained within the previous 5 days:
- an affected person must not operate a home-based education and care service after 26 October 2021 unless every person over the age of 12 years who resides there has provided to the relevant PCBU a negative result from a test for COVID-19 or proof of a medical exemption:

- until 1 January 2022, a person who is entitled to physically attend or perform work or provide a service onsite at an affected education service under the terms of these requirements, but has not been vaccinated (as defined in the COVID-19 Public Health Response (Vaccinations) Order 2021), can continue to physically attend or perform the work or provide the service there on the condition that they provide to the relevant PCBU a negative result from a test for COVID-19 at least once every 7 days until they have been vaccinated. In the case of a home-based education and care service, that information must be provided to the relevant PCBU (in relation to the affected person who provides the service) by every affected person who resides in the home where the service is provided.

The terms used in this order to define an affected education service, and related terms, are defined in section 10(1) of the Education and Training Act 2020.

For the purposes of the testing requirements set out in this order, the following are affected persons:

- employees of an affected education service;
- persons performing work or providing a service at an affected education service, including a volunteer or an unpaid worker, who may have contact with children or students in the course of performing the work or providing the service;
- in the case of a home-based education and care service, persons over the age of 12 years who reside in the home where the service is provided.

A failure to comply with the testing requirements 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 a resolution of the House of Representatives before the expiry of the period described in section 16(2) of the Act. 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*: 15 October 2021.
This order is administered by the Ministry of Health.

Notes

1 *General*

This is a consolidation of the COVID-19 Public Health Response (Required Testing) Amendment Order (No 4) 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 (Required Testing) Order Revocation Order 2022 (SL 2022/193): clause 3