

**Reprint
as at 6 September 2020**



**COVID-19 Public Health Response (Air Border) Order
2020**

(LI 2020/120)

COVID-19 Public Health Response (Air Border) Order 2020: revoked, at 11.59 pm on 6 September 2020, by clause 16 of the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 (LI 2020/239).

This order is made in accordance with sections 9 and 11, and clause 1 of Schedule 1, of the COVID-19 Public Health Response Act 2020 by the Minister of Health.

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Transitional, savings, and related provisions

Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

This order is administered by the Ministry of Health.

Order

1 Title

This order is the COVID-19 Public Health Response (Air Border) Order 2020.

2 Commencement

This order comes into force at 11.59 pm on 22 June 2020.

3 Purpose

The purpose of this order is to prevent, and limit the risk of, the outbreak or spread of COVID-19 by putting in place isolation and quarantine requirements for persons arriving in New Zealand by air.

Clause 3: amended, at 11.59pm on 13 July 2020, by clause 5 of the COVID-19 Public Health Response (Air Border) Amendment Order 2020 (LI 2020/159).

4 Interpretation

(1) In this order, unless the context otherwise requires,—

chief executive of MBIE means the chief executive of the Ministry of Business, Innovation, and Employment

Director-General has the same meaning as in section 2(1) of the Health Act 1956

excluded arrival means any of the following persons:

- (a) any aircraft pilots or flight crew members:
- (b) any maritime crew members transferring to a ship (within the meaning of the Health Act 1956) immediately after their arrival in New Zealand:
- (c) any medical attendants assisting with medical air transfers:
- (d) any person designated by the Director-General as critical to providing services to assist with the response to COVID-19:
- (e) any person who is entitled to any immunity from jurisdiction by or under—
 - (i) the Diplomatic Privileges and Immunities Act 1968 (other than a person referred to in section 10D(2)(d) of that Act) or the Consular Privileges and Immunities Act 1971; or
 - (ii) any order under either of those Acts:
- (f) any person who is a member of the New Zealand Defence Force and returning from service outside of New Zealand

fellow resident, of any person (**person A**), means another person who is isolated or quarantined together with person A

health practitioner has the same meaning as in section 5(1) of the Health Practitioners Competence Assurance Act 2003

high risk facility means a facility designated by a medical officer of health for the purposes of detaining people in a way appropriate for people with a high risk of transmitting COVID-19

low risk facility means a facility designated by a medical officer of health for the purposes of detaining people in a way appropriate for people with a low risk of transmitting COVID-19

low risk indicators has the meaning given in subclause (2)

physical distancing, from other persons, means remaining at least 2 metres away from those other persons

place of isolation or quarantine, of a person, means the person's place of isolation or quarantine as determined under clause 7(5)

security designated aerodrome has the same meaning as in section 2(1) of the Civil Aviation Act 1990.

- (2) For the purposes of this order, a person meets the **low risk indicators** if—
- (a) the person submits to a medical test for COVID-19 and the result of that test is negative; and
 - (b) any other medical tests or information relating to the person indicate that the person is at low risk of having or transmitting COVID-19.
- (3) Subclause (2)(a) does not apply in relation to a person who has particular physical or other needs that a medical officer of health or health protection officer determines would make it inappropriate for the person to undertake the medical test.

Clause 4(1) **chief executive of MBIE**: inserted, at 11.59pm on 13 July 2020, by clause 6 of the COVID-19 Public Health Response (Air Border) Amendment Order 2020 (LI 2020/159).

5 Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1 have effect according to their terms.

6 Application of this order

This order applies throughout New Zealand.

7 Medical examination, testing, and isolation or quarantining requirements

Obligations for arrivals

- (1) Every person arriving in New Zealand by air (other than excluded arrivals) must—
- (a) report for, and submit to, medical examination and testing, as soon as practicable after their arrival, at the security designated aerodrome at which they arrive; and
 - (b) be isolated or quarantined for the required period—

- (i) by remaining throughout that period at a place determined to be their place of isolation or quarantine (except as permitted under clause 8); and
- (ii) by maintaining physical distancing (to the greatest extent practicable) throughout that period from all other persons in or outside the place (including all other persons who are isolated or quarantined at the place, but not including fellow residents); and
- (c) further report for, and submit to, medical examination and testing, as directed by a medical officer of health or a health protection officer, at any time during their required period of isolation or quarantine; and
- (d) wear personal protective equipment as directed by a medical officer of health or a health protection officer.

What medical examination and testing involves

- (2) Medical examination and testing under this clause may only involve testing for temperatures, seeking information on symptoms, carrying out chest auscultation, and taking mouth or nose swabs (or both), as required to test for COVID-19.

Required period of isolation or quarantine

- (3) The **required period of isolation or quarantine** of a person under this clause is—
 - (a) the period ending 14 days after the start date if the chief executive of MBIE is satisfied (as close as is reasonably practicable to the end of that period and on the basis of the advice of a suitably qualified health practitioner) that the person meets the low risk indicators; or
 - (b) any longer period needed to satisfy the chief executive of MBIE (on the basis of the advice of a suitably qualified health practitioner) that the person meets the low risk indicators, but no longer than the period ending 28 days after the start date.
- (4) The **start date** is the latest of the following:
 - (a) the date on which the person arrives in New Zealand;
 - (b) the date on which a fellow resident of the person joins the person at that person's place of isolation or quarantine.

Determining place of isolation or quarantine

- (5) A person's **place of isolation or quarantine** under this clause is to be one of the following, as determined by a medical officer of health or a health protection officer:
 - (a) a high risk facility;
 - (b) a low risk facility;
 - (c) a place other than a high risk facility or low risk facility if necessary due to the particular physical or other needs of the person.

Clause 7(3) heading: replaced, at 11.59pm on 13 July 2020, by clause 7 of the COVID-19 Public Health Response (Air Border) Amendment Order 2020 (LI 2020/159).

Clause 7(3): replaced, at 11.59pm on 13 July 2020, by clause 7 of the COVID-19 Public Health Response (Air Border) Amendment Order 2020 (LI 2020/159).

8 Permission to leave place of isolation or quarantine for purposes of clause 7(1)(b)(i)

- (1) For the purposes of clause 7(1)(b)(i), a person is permitted to leave their place of isolation or quarantine—
- (a) for the purposes of engaging in outdoor exercise of a class, and in accordance with any conditions, authorised by the chief executive of MBIE; or
 - (b) if it is necessary for the person to do so, as a matter of emergency, to preserve their own or any other person's life or safety; or
 - (c) if it is necessary for the person to do so to access any court or tribunal; or
 - (d) if the chief executive of MBIE is satisfied, on the basis of the advice of a medical officer of health or a health protection officer, that it is necessary for the person to do so—
 - (i) to access medical services; or
 - (ii) to move to another place of isolation or quarantine (including, for example, to move to another place for temporary or emergency care while the person is sick); or
 - (e) *[Revoked]*
 - (f) if the person is required to do so under Part 4 of the Health Act 1956; or
 - (g) *[Revoked]*
 - (h) if the person is required to move to another place of isolation or quarantine in compliance with—
 - (i) a court order; or
 - (ii) any other obligations imposed by or under any enactment that are related to the detention of the person (for example, a direction of the New Zealand Parole Board or a probation officer); or
 - (i) to assist or accompany a child or other person to travel to or from a place under any of paragraphs (b) to (h), but only if the person is a fellow resident of the child or other person and is authorised to do so by the chief executive of MBIE.
- (1A) In determining whether or not to authorise a person to leave under subclause (1)(i), the chief executive of MBIE must take into account the advice of a medical officer of health or a health protection officer.

Exceptional reasons

- (2) For the purposes of clause 7(1)(b)(i), a person is also permitted to leave their place of isolation or quarantine for any exceptional reason, as authorised by the chief executive of MBIE (with or without conditions).
- (3) Before authorising a person to leave under subclause (2), the chief executive of MBIE must—
 - (a) take into account any effect that a medical officer of health advises the person’s leaving the place might have on the risk of an outbreak or the spread of COVID-19; and
 - (b) be satisfied, on the basis of the advice of a suitably qualified health practitioner, that the person meets the low risk indicators; and
 - (c) be satisfied that the person will comply with any conditions of the authorisation.

Clause 8(1)(a): amended, at 11.59pm on 13 July 2020, by clause 8(1) of the COVID-19 Public Health Response (Air Border) Amendment Order 2020 (LI 2020/159).

Clause 8(1)(b): amended, at 11.59pm on 13 July 2020, by clause 8(2) of the COVID-19 Public Health Response (Air Border) Amendment Order 2020 (LI 2020/159).

Clause 8(1)(c): amended, at 11.59pm on 13 July 2020, by clause 8(2) of the COVID-19 Public Health Response (Air Border) Amendment Order 2020 (LI 2020/159).

Clause 8(1)(d): replaced, at 11.59pm on 13 July 2020, by clause 8(3) of the COVID-19 Public Health Response (Air Border) Amendment Order 2020 (LI 2020/159).

Clause 8(1)(e): revoked, at 11.59pm on 13 July 2020, by clause 8(3) of the COVID-19 Public Health Response (Air Border) Amendment Order 2020 (LI 2020/159).

Clause 8(1)(f): amended, at 11.59pm on 13 July 2020, by clause 8(4) of the COVID-19 Public Health Response (Air Border) Amendment Order 2020 (LI 2020/159).

Clause 8(1)(g): revoked, at 11.59pm on 13 July 2020, by clause 8(5) of the COVID-19 Public Health Response (Air Border) Amendment Order 2020 (LI 2020/159).

Clause 8(1)(h): amended, at 11.59pm on 13 July 2020, by clause 8(6) of the COVID-19 Public Health Response (Air Border) Amendment Order 2020 (LI 2020/159).

Clause 8(1)(i): replaced, at 11.59pm on 13 July 2020, by clause 8(7) of the COVID-19 Public Health Response (Air Border) Amendment Order 2020 (LI 2020/159).

Clause 8(1A): inserted, at 11.59pm on 13 July 2020, by clause 8(8) of the COVID-19 Public Health Response (Air Border) Amendment Order 2020 (LI 2020/159).

Clause 8(2): amended, at 11.59pm on 13 July 2020, by clause 8(9) of the COVID-19 Public Health Response (Air Border) Amendment Order 2020 (LI 2020/159).

Clause 8(3): amended, at 11.59pm on 13 July 2020, by clause 8(10) of the COVID-19 Public Health Response (Air Border) Amendment Order 2020 (LI 2020/159).

Clause 8(3)(a): replaced, at 11.59pm on 13 July 2020, by clause 8(11) of the COVID-19 Public Health Response (Air Border) Amendment Order 2020 (LI 2020/159).

9 Caregivers of children

- (1) A caregiver of a child may, with the authorisation of the chief executive of MBIE, enter the child’s place of isolation or quarantine to care for the child.
- (2) If a caregiver enters the child’s place of isolation or quarantine to care for the child,—

- (a) the caregiver must be isolated or quarantined together with the child (and is therefore a fellow resident of the child); and
- (b) the provisions of this order (except for clause 7(1)(a)) apply in relation to the caregiver in the same way as they apply in relation to any other person who is required to be isolated or quarantined under this order.

Clause 9(1): amended, at 11.59pm on 13 July 2020, by clause 9 of the COVID-19 Public Health Response (Air Border) Amendment Order 2020 (LI 2020/159).

10 Revocations

The following orders are revoked:

- (a) the order made on 9 April 2020 under section 70(1)(e), (ea), and (f) of the Health Act 1956; and
- (b) the order made on 8 May 2020 under section 70 of the Health Act 1956 amending and extending that order.

Schedule 1 Transitional, savings, and related provisions

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Part 1 Provisions relating to this order as made

1 Definition of former order

In this Part, **former order** means the order made on 9 April 2020 under section 70(1)(e), (ea), and (f) of the Health Act 1956, as amended and extended by the order made on 8 May 2020 under section 70 of that Act.

2 High risk facilities and low risk facilities

- (1) A facility that, immediately before 11.59 pm on 22 June 2020, was designated as a high risk facility under the former order is taken to have been designated as a high risk facility under this order.
- (2) A facility that, immediately before 11.59 pm on 22 June 2020, was designated as a low risk facility under the former order is taken to be have been designated as a low risk facility under this order.

3 Application to persons isolated or quarantined under former order

- (1) This clause applies to a person if, immediately before 11.59 pm on 22 June 2020, that person—
 - (a) was in isolation or quarantine under the former order; or

- (b) had arrived in New Zealand by air and would have been required to be, but had not yet been, isolated or quarantined under the former order and is not an excluded arrival (as defined in this order).
- (2) The requirements of this order apply in place of the former order.
- (3) To avoid doubt, the period for which the person is to remain in isolation or quarantine must be determined in accordance with clause 7(3) and (4) of this order.

Part 2

Provisions relating to COVID-19 Public Health Response (Air Border) Amendment Order 2020

Schedule 1 Part 2: inserted, at 11.59pm on 13 July 2020, by clause 10 of the COVID-19 Public Health Response (Air Border) Amendment Order 2020 (LI 2020/159).

4 Definition of amending order

In this Part,—

amending order means the COVID-19 Public Health Response (Air Border) Amendment Order 2020

commencement means 11.59 pm on 13 July 2020.

Schedule 1 clause 4: inserted, at 11.59pm on 13 July 2020, by clause 10 of the COVID-19 Public Health Response (Air Border) Amendment Order 2020 (LI 2020/159).

5 Exercise authorised by Director-General

Outdoor exercise of a class that, immediately before commencement, was authorised by the Director-General under clause 8(1)(a) of this order is taken—

- (a) to have been authorised by the chief executive of MBIE under clause 8(1)(a), as amended by the amending order; and
- (b) to be subject to the same conditions as applied immediately before commencement.

Schedule 1 clause 5: inserted, at 11.59pm on 13 July 2020, by clause 10 of the COVID-19 Public Health Response (Air Border) Amendment Order 2020 (LI 2020/159).

6 Consent to accompany child or other person

The consent of a medical officer of health or a health protection officer that, immediately before commencement, was in force under clause 8(1)(i) of this order is taken to be an authorisation of the chief executive of MBIE for the purposes of clause 8(1)(i), as amended by the amending order.

Schedule 1 clause 6: inserted, at 11.59pm on 13 July 2020, by clause 10 of the COVID-19 Public Health Response (Air Border) Amendment Order 2020 (LI 2020/159).

7 Authorisation to leave place of isolation or quarantine for exceptional reasons

An authorisation of the Director-General that, immediately before commencement, was in force under clause 8(2) of this order is taken to be an authorisation of the chief executive of MBIE under clause 8(2), as amended by the amending order.

Schedule 1 clause 7: inserted, at 11.59pm on 13 July 2020, by clause 10 of the COVID-19 Public Health Response (Air Border) Amendment Order 2020 (LI 2020/159).

8 Authorisation relating to caregivers of children

An authorisation of the Director-General that, immediately before commencement, was in force under clause 9(1) of this order is taken to be the authorisation of the chief executive of MBIE under clause 9(1), as amended by the amending order.

Schedule 1 clause 8: inserted, at 11.59pm on 13 July 2020, by clause 10 of the COVID-19 Public Health Response (Air Border) Amendment Order 2020 (LI 2020/159).

Dated at Dunedin this 20th day of June 2020.

Hon Dr David Clark,
Minister of Health.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 20 June 2020.

Reprints notes

1 *General*

This is a reprint of the COVID-19 Public Health Response (Air Border) Order 2020 that incorporates all the amendments to that order as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

COVID-19 Public Health Response (Air Border) Order (No 2) 2020 (LI 2020/239): clause 16

COVID-19 Public Health Response (Air Border) Amendment Order 2020 (LI 2020/159)