



COVID-19 Public Health Response (Required Testing) Amendment Order (No 3) 2020

This order is made by the Minister for COVID-19 Response—

- (a) under sections 11 and 15(1) of the COVID-19 Public Health Response Act 2020 and section 7 of the Constitution Act 1986; and
- (b) in accordance with section 9 of the COVID-19 Public Health Response Act 2020.

Contents

		Page
1	Title	2
2	Commencement	2
3	Principal order	2
4	Clause 4 amended (Interpretation)	2
5	Clause 7 replaced (Requirement to undergo testing and medical examination)	3
<i>Testing and medical examination requirements</i>		
7	Affected person must undergo testing and medical examination	3
6	Clauses 10 and 11 replaced	3
<i>Further duties relating to testing and medical examination</i>		
10	Duty of relevant PCBU to facilitate compliance with testing and medical examination requirements	3
11	Duty of relevant PCBU to keep record of testing and medical examination	3
<i>Infringement offences</i>		
12	Infringement offences	4
7	Schedule 2 replaced	4
Schedule		5
Schedule 2 replaced		

Order

1 Title

This order is the COVID-19 Public Health Response (Required Testing) Amendment Order (No 3) 2020.

2 Commencement

This order comes into force at 11.59 pm on 25 November 2020.

3 Principal order

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

4 Clause 4 amended (Interpretation)

- (1) In clause 4, replace the definition of **excluded airside person** with:

excluded airport person, in relation to a group, means—

- (a) a person who—
 - (i) works at an affected airport, and interacts only with international departing passengers (other than international transiting passengers); or
 - (ii) works on the airside of the affected airport only in areas that are inaccessible to international arriving or international transiting passengers, and does not interact with international arriving or international transiting passengers on the landside of the affected airport; or
- (b) a person who is an aircrew member

- (2) In clause 4, insert in their appropriate alphabetical order:

enclosed space,—

- (a) in relation to an aircraft, means an enclosed or a partially enclosed space on board the aircraft in which physical distancing from the aircrew or international arriving or international transiting passengers is not practicable;
- (b) in relation to an affected ship, means an enclosed or partially enclosed space on board the ship in which physical distancing from the ship's crew is not practicable

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

relevant PCBU, in relation to an affected person, means the PCBU (within the meaning of section 17 of the Health and Safety at Work Act 2015) who employs or engages the affected person to carry out work for the PCBU

5 Clause 7 replaced (Requirement to undergo testing and medical examination)

Replace clause 7 with:

*Testing and medical examination requirements***7 Affected person must undergo testing and medical examination**

- (1) An affected person must report for, and undergo, testing and medical examination for COVID-19—
 - (a) at a testing centre specified in the table for the group to which the affected person belongs; and
 - (b) at least once within each testing period specified in the fourth column of the item of the table for the group to which the affected person belongs.
- (2) If an affected person belongs to 2 or more groups and is subject to 2 or more testing periods, the period that requires the most frequent testing and medical examination applies to the affected person.

6 Clauses 10 and 11 replaced

Replace clauses 10 and 11 with:

*Further duties relating to testing and medical examination***10 Duty of relevant PCBU to facilitate compliance with testing and medical examination requirements**

For the purposes of facilitating compliance with this order, a relevant PCBU—

- (a) must notify each affected person employed or engaged by the relevant PCBU of—
 - (i) the requirement to undergo testing and medical examination under clause 7; and
 - (ii) the testing period that applies to the affected person; and
- (b) must not prevent the affected person from reporting for, and undergoing, testing and medical examination during their working hours, if testing and medical examination are available during those hours.

11 Duty of relevant PCBU to keep record of testing and medical examination

- (1) A relevant PCBU must, for each affected person employed or engaged by the relevant PCBU, keep and maintain a record of the following information:
 - (a) the affected person's full legal name and date of birth;
 - (b) a telephone number by which the affected person may be reached;
 - (c) the testing period that applies to the affected person;

- (d) the dates on which the affected person has undergone testing and medical examination in accordance with the testing period that applies to the affected person;
 - (e) if the affected person is exempt from testing and medical examination under clause 8, the testing period to which the exemption relates.
- (2) The record must—
- (a) be in writing or kept in a form or in a manner that allows the information in the record to be easily accessed and converted into written form; and
 - (b) made available as soon as practicable to an enforcement officer who requests access to the record.
- (3) For the purpose of this clause, the affected person must—
- (a) provide the relevant PCBU with (or give the relevant PCBU access to) the information specified in subclause (1)(a) to (e) as soon as practicable; and
 - (b) ensure that the information is updated as soon as practicable after it changes.

Infringement offences

12 Infringement offences

A breach of clause 7, 10, or 11 is an infringement offence for the purposes of section 26(3) of the COVID-19 Public Health Response Act 2020.

7 Schedule 2 replaced

Replace Schedule 2 with the Schedule 2 set out in the Schedule of this order.

**Schedule
Schedule 2 replaced**

cl 7

**Schedule 2
Groups of affected persons and relevant requirements**

cls 4, 7(1)

Item	Group	Testing centre	Testing period
<i>Part 1: Groups in relation to managed quarantine facilities</i>			
1.1	Workers at managed quarantine facility	Community testing centre, testing centre at quarantine facility, or other healthcare facility	Once every 7 days starting on 7 September 2020
1.2	Workers who transport to or from managed quarantine facility persons required to be in isolation or quarantine under COVID-19 order	Community testing centre, testing centre at quarantine facility, or other healthcare facility	Once every 7 days starting on 7 September 2020
<i>Part 2: Groups in relation to managed isolation facilities</i>			
2.1	Workers at managed isolation facility	Community testing centre, testing centre at isolation facility, or other healthcare facility	Once every 14 days starting on 7 September 2020
2.2	Workers who transport to or from managed isolation facility persons required to be in isolation or quarantine under COVID-19 order	Community testing centre, testing centre at isolation facility, or other healthcare facility	Once every 14 days starting on 7 September 2020
<i>Part 3: Groups in relation to affected airports</i>			
3.1	Persons (other than excluded airport persons) who spend more than 15 minutes in enclosed space on board aircraft that arrives from location outside New Zealand	Community testing centre, testing centre at affected airport, or other healthcare facility	Once every 7 days starting on 25 November 2020
3.2	Airside government officials (other than excluded airport persons), including (without limitation) personnel from Immigration New Zealand, New Zealand Customs Service, Aviation Security Service, or Ministry for Primary Industries	Community testing centre, testing centre at affected airport, or other healthcare facility	Once every 14 days starting on 7 September 2020
3.3	Airside district health board workers (other than excluded airport persons)	Community testing centre, testing centre at affected airport, or other healthcare facility	Once every 14 days starting on 7 September 2020

**COVID-19 Public Health Response (Required Testing)
Amendment Order (No 3) 2020**

Schedule

2020/284

Item	Group	Testing centre	Testing period
3.4	Airside retail, food, and beverage workers (other than excluded airport persons)	Community testing centre, testing centre at affected airport, or other healthcare facility	Once every 14 days starting on 7 September 2020
3.5	Airside workers (other than excluded airport persons) handling baggage trolleys used by international arriving or international transiting passengers	Community testing centre, testing centre at affected airport, or other healthcare facility	Once every 14 days starting on 7 September 2020
3.6	Airside airline workers (other than excluded airport persons) who interact with passengers	Community testing centre, testing centre at affected airport, or other healthcare facility	Once every 14 days starting on 7 September 2020
3.7	Airside airport workers (other than excluded airport persons) who interact with passengers	Community testing centre, testing centre at affected airport, or other healthcare facility	Once every 14 days starting on 7 September 2020
3.8	Airside cleaning workers (other than excluded airport persons)	Community testing centre, testing centre at affected airport, or other healthcare facility	Once every 14 days starting on 7 September 2020
3.9	All other airside workers (other than excluded airport persons)	Community testing centre, testing centre at affected airport, or other healthcare facility	Once every 14 days starting on 25 November 2020
3.10	All landside workers (other than excluded airport persons) who interact with international arriving or international transiting passengers	Community testing centre, testing centre at affected airport, or other healthcare facility	Once every 14 days starting on 25 November 2020
<i>Part 4: Groups in relation to affected ports</i>			
4.1	Persons (other than excluded port persons) who spend more than 15 minutes in enclosed space on board affected ship	Community testing centre, testing centre at affected port, or other healthcare facility	Once every 7 days starting on 25 November 2020
4.2	Pilots (other than excluded port persons) carrying out work on or around affected ship	Community testing centre, testing centre at affected port, or other healthcare facility	Once every 7 days starting on 25 November 2020
4.3	Stevedores (other than excluded port persons) carrying out work on or around affected ship	Community testing centre, testing centre at affected port, or other healthcare facility	Once every 14 days starting on 7 September 2020
4.4	Persons (other than excluded port persons) who board, or have boarded, affected ship	Community testing centre, testing centre at affected port, or other healthcare facility	Once every 14 days starting on 7 September 2020
4.5	Workers who transport persons to or from affected ship	Community testing centre, testing centre at affected port, or other healthcare facility	Once every 14 days starting on 7 September 2020

Item	Group	Testing centre	Testing period
4.6	All other port workers (other than excluded port persons) who interact with persons required to be in isolation or quarantine under COVID-19 order	Community testing centre, testing centre at affected port, or other healthcare facility	Once every 14 days starting on 25 November 2020
5.1	Aircrew members	<i>Part 5: Aircrew members</i> Community testing centre, testing centre at airport, or other healthcare facility	Once every 7 days starting on 19 October 2020

Dated at Wellington this 18th day of November 2020.

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 at 11.59 pm on 25 November 2020, amends the COVID-19 Public Health Response (Required Testing) Order 2020 (the **principal order**).

The main effect of the amendments is to impose new duties on a person conducting a business or undertaking who employs or engages an affected person (a **relevant PCBU**) to—

- facilitate compliance with the testing and medical examination requirements that apply to the affected person under the principal order; and
- keep and maintain a record of the affected person’s compliance with those requirements.

The amendments also require an affected person to provide the relevant PCBU with (or give the PCBU access to) information for record-keeping purposes. A breach of these duties by a relevant PCBU or an affected person is an infringement offence under section 26(3) of the COVID-19 Public Health Response Act 2020 (the **Act**) for which the PCBU or person is liable to an infringement fee of \$300 or a fine not exceeding \$1,000.

This order also replaces Schedule 2, which specifies groups of affected persons who are required to report for, and undergo, testing and medical examination for COVID-19 under the principal order. *New Schedule 2* continues the effect of the existing schedule but adds the following new groups (and requirements) to Parts 3 and 4, which relate to affected airports and affected ports:

- persons (other than excluded airport persons) who spend more than 15 minutes in an enclosed space on board an aircraft that arrives from a location outside New Zealand are required to undergo testing and medical examination once every 7 days (*see item 3.1*):
- all other airside workers (other than excluded airport persons) are required to undergo testing and medical examination once every 14 days (*see item 3.9*):
- all landside workers (other than excluded airport persons) who interact with international arriving or international transiting passengers at an affected airport are required to undergo testing and medical examination once every 14 days (*see item 3.10*):
- persons (other than excluded port persons) who spend more than 15 minutes in an enclosed space on board an affected ship are required to undergo testing and medical examination once every 7 days (*see item 4.1*):
- all other port workers (other than excluded port persons) who interact with persons required to be in isolation or quarantine under a COVID-19 order are required to undergo testing and medical examination once every 14 days (*see item 4.6*).

New Schedule 2 also—

- increases the frequency of the required testing and medical examination of pilots (other than excluded port persons) who carry out work on or around affected ships from once every 14 days to once every 7 days (*see item 4.2*); and
- provides for testing and medical examination of all of the groups specified in the schedule to be carried out at other healthcare facilities in addition to the existing testing centres.

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 2012.
Date of notification in *Gazette*: 19 November 2020.
This order is administered by the Ministry of Health.