

**Version
as at 26 September 2022**



**COVID-19 Public Health Response (Protection
Framework and Vaccinations) Amendment Order 2022**
(SL 2022/89)

COVID-19 Public Health Response (Protection Framework and Vaccinations) Amendment Order 2022: revoked, at 11.59 pm on 26 September 2022, pursuant to clause 3(2) of the COVID-19 Public Health Response (Revocations) Order 2022 (SL 2022/254).

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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Schedule 2

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New Parts 2 and 2A inserted into Schedule 6

Schedule 3

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Parts 2, 2A, and 3 of Schedule 7 replaced

Order

1 Title

This order is the COVID-19 Public Health Response (Protection Framework and Vaccinations) Amendment Order 2022.

2 Commencement

This order comes into force at 11.59 pm on 4 April 2022.

Part 1

Amendments to COVID-19 Public Health Response (Protection Framework) Order 2021

3 Principal order

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

4 Clause 5 amended (Interpretation)

- (1) In clause 5(1), replace the definition of **face covering** with:

face covering means a covering of any type that—

- (a) covers the nose and mouth of a person; and
- (b) is secured to the person’s head by ear loops or a head loop

- (2) In clause 5(1), definition of **face covering rule**, replace “clause 11” with “clause 11(1)”.

- (3) In clause 5(1), insert in its appropriate alphabetical order:

medical-grade face covering rule means the rule in clause 11(2)

- (4) In clause 5(1), replace the definition of **vaccine-mandate work** with:

vaccine-mandate work means any work that is certain work as defined in clause 4 of the COVID-19 Public Health Response (Vaccinations) Order 2021

5 Clause 11 replaced (Meaning of face covering rule)

Replace clause 11 with:

11 Meaning of face covering rule and medical-grade face covering rule

- (1) In this order, the **face covering rule** requires that a person must wear a face covering except as provided in subclause (3).
- (2) In this order, the **medical-grade face covering rule** requires that a person must wear a medical-grade face covering except as provided in subclause (3).
- (3) A person is not required to wear a face covering or medical-grade face covering—

- (a) if the person—
 - (i) is under the age of 12 years; or
 - (ii) has a physical or mental illness or condition or disability that makes wearing a face covering unsuitable; or
- (b) when outdoors; or
- (c) when taking medicine; or
- (d) when eating or drinking; or
- (e) when in a defined or an enclosed space that is separate from the passenger area of a vehicle that is in use as part of a public transport service; or
- (f) when communicating with a person who is deaf or hard of hearing and visibility of the mouth is essential for communication; or
- (g) when asked to remove the face covering to ascertain the person’s identity; or
- (h) if wearing a face covering is not safe in all of the circumstances; or
- (i) in an emergency (*see* clause 102); or
- (j) when exercising or playing sport; or
- (k) when removal of, or not wearing, the face covering is otherwise required or authorised by law.

6 Clause 23 amended (Person must comply with face covering rule in specified premises or circumstances)

In clause 23(2)(a) and (b), after “those premises”, insert “or in those circumstances” in each place.

7 New clause 23A inserted (Certain workers must comply with medical-grade face covering rule)

After clause 23, insert:

23A Certain workers must comply with medical-grade face covering rule

- (1) A person must comply with the medical-grade face covering rule if they are—
 - (a) a worker of a type specified in an active COVID-19 response schedule for the purposes of this clause; and
 - (b) working in the circumstances specified for that type of worker in that schedule.
- (2) However, subclause (1) does not apply to the following workers, provided that they are complying with the 2-metre physical distancing rule:
 - (a) a worker while performing as an entertainer;
 - (b) a person presenting to an audience.

- (3) If an active COVID-19 response schedule requires a person to comply with both the face covering rule and the medical-grade face covering rule, the person must comply with the medical-grade face covering rule.

8 Clause 24 replaced (Business or service must have systems and processes to ensure workers wear face coverings)

Replace clause 24 with:

24 Business or service must have systems and processes to ensure workers wear face coverings or medical-grade face coverings

- (1) A business or service at which workers are required by an applicable COVID-19 provision to comply with the face covering rule or the medical-grade face covering rule must have systems and processes in place to—
- (a) ensure, as far as is reasonably practicable, that workers at the workplace comply with the face covering rule or the medical-grade face covering rule; and
 - (b) mitigate, as far as is reasonably practicable, the risks of spreading COVID-19 that arise to the extent that workers are unable to wear a face covering or a medical-grade face covering in the circumstances described in clause 11(3)(a)(ii).
- (2) Subclause (1) does not apply to public transport operators.

9 Clause 46 amended (Gathering of CVC compliant people permitted if indoor capacity limit not exceeded)

Replace clause 46(4) with:

- (4) The gathering must not exceed the **number limit**, which,—
- (a) in an indoor defined space (other than a private dwellinghouse), is the lesser of the following:
 - (i) the fixed number of people (excluding workers);
 - (ii) the maximum number of people who could occupy the space if each person were to comply with the specified physical distancing rule;
 - (b) in a private dwellinghouse, is the fixed number of people (excluding workers) in the dwellinghouse at any one time.

10 Clause 47 amended (Fixed capacity gathering permitted)

- (1) Replace the heading to clause 47 with “**Gathering permitted if indoor capacity limit not exceeded**”.
- (2) Replace clause 47(2) with:
- (2) The gathering must not exceed the **number limit**, which,—

- (a) in an indoor defined space (other than a private dwellinghouse), is the lesser of the following:
 - (i) the fixed number of people (excluding workers):
 - (ii) the maximum number of people who could occupy the space if each person were to comply with the specified physical distancing rule:
- (b) in a private dwellinghouse, is the fixed number of people (excluding workers) in the dwellinghouse at any one time.

(3) In clause 47(3), replace “a defined space” with “an indoor defined space”.

11 New clause 47A inserted (Gathering permitted if outdoors)

After clause 47, insert:

47A Gathering permitted if outdoors

A gathering is permitted if it is held outdoors.

12 Clause 51 amended (No event unless permitted)

In clause 51(4), replace “52, 53, or 54” with “any of clauses 52 to 54A”.

13 Clause 53 amended (Event for CVC compliant people permitted if indoor capacity limit not exceeded)

In clause 53(4), replace “any indoor defined space” with “an indoor defined space”.

14 Clause 54 amended (Fixed capacity event permitted)

- (1) In the heading to clause 54, replace “Fixed capacity event” with “Fixed capacity indoor event”.
- (2) In clause 54(2), after “the following”, insert “in an indoor defined space”.
- (3) In clause 54(3), replace “a defined space” with “an indoor defined space”.

15 New clause 54A inserted (Outdoor event permitted)

After clause 54, insert:

54A Outdoor event permitted

An event is permitted if it is held outdoors.

16 Clause 104 amended (Other exemptions)

In clause 104(2), replace “the face covering rule” with “the medical-grade face covering rule”.

17 Schedule 5 amended

In Schedule 5, after Part 1, insert the Part 2 set out in Schedule 1 of this order.

18 Schedule 6 amended

In Schedule 6, after Part 1, insert the Parts 2 and 2A set out in Schedule 2 of this order.

19 Schedule 7 amended

In Schedule 7, replace Parts 2, 2A, and 3 with the Parts 2 and 2A set out in Schedule 3 of this order.

Part 2

**Amendments to COVID-19 Public Health Response (Vaccinations)
Order 2021**

20 Principal order

This Part amends the COVID-19 Public Health Response (Vaccinations) Order 2021.

21 Clause 8A amended (Exclusion from certain duties)

Replace clause 8A(1) with:

- (1) Despite clause 7, an affected person who is vaccinated may carry out certain work without receiving a booster dose if the affected person is under 18 years of age.

22 Clause 9 amended (Relevant chief executive may authorise affected persons not vaccinated or who have not received booster dose to carry out certain work)

Revoke clause 9(5)(cb).

23 Clause 9B amended (Director-General may grant COVID-19 vaccination exemption)

Replace clause 9B(1) with:

- (1) A suitably qualified medical practitioner or nurse practitioner (the **applicant**) may apply to the Director-General for a COVID-19 vaccination exemption on behalf of a person if—
- (a) the person belongs to a group specified in Part 6, 7, or 8 of the table in Schedule 2; and
 - (b) either or both of the following applies:
 - (i) the person is not vaccinated;
 - (ii) the person has not received a booster dose.

24 Clause 11 amended (Duties of affected person regarding vaccination records)

Revoke clause 11(4).

25 Clause 11A amended (Duties of relevant PCBUs of affected persons belonging to groups specified in Part 7, item 8.2 of Part 8, or Part 9 or 10 of Schedule 2: vaccine records)

- (1) In the heading to clause 11A, replace “**Part 7, item 8.2 of Part 8, or Part 9 or 10 of Schedule 2: vaccine records**” with “**Part 7 or item 8.2 of Part 8 of Schedule 2: vaccine records**”.
- (2) In clause 11A(1), replace “, item 8.2 of Part 8, or Parts 9 or 10 of the table in Schedule 2” with “or item 8.2 of Part 8 of the table in Schedule 2”.

26 Schedule 2 amended

In Schedule 2, revoke the items relating to Parts 9 and 10 and the cross-headings above items 9.1 and 10.1.

Schedule 1
New Part 2 inserted into Schedule 5

cl 17

Part 2		
COVID-19 provisions that have effect		
Clause	Brief description	Modification
	<i>Access must not be denied on vaccination grounds</i>	
cl 31	Person must not be denied access to certain premises on vaccination grounds	
cl 32	Person must not be denied access to goods or services from certain premises on vaccination grounds	
cl 33	Business or service in control of premises must allow people access to designated premises	
cl 33A	Business or service in control of premises A must allow student access for purpose of participating in extra-curricular or curricular activity in premises B	

Schedule 2

New Parts 2 and 2A inserted into Schedule 6

cl 18

Part 2		
COVID-19 provisions that have effect		
Clause	Brief description	Modification
	<i>Face coverings</i>	
cl 23	Person must comply with face covering rule in specified premises or circumstances	For the purposes of clause 23, the second column of subpart 1 of Part 2A of this schedule specifies the premises or circumstances in which a person must comply with the face covering rule.
cl 23A	Certain workers must comply with medical-grade face covering rule	For the purposes of clause 23A,— (a) the second column of subpart 2 of Part 2A of this schedule specifies the types of workers that must comply with the medical-grade face covering rule; and (b) the third column of subpart 2 of Part 2A of this schedule specifies the circumstances in which the worker must comply with the medical-grade face covering rule.
cl 24	Business or service must have systems and processes to ensure workers wear face coverings or medical-grade face coverings	
	<i>Access must not be denied on vaccination grounds</i>	
cl 31	Person must not be denied access to certain premises on vaccination grounds	
cl 32	Person must not be denied access to goods or services from certain premises on vaccination grounds	
cl 33	Business or service in control of premises must allow people access to designated premises	
cl 33A	Business or service in control of premises A must allow student access for purpose of participating in extra-curricular or curricular activity in premises B	

Part 2A

Who must comply with face covering rule or medical-grade face covering rule

Subpart 1—When person must comply with face covering rule

Item	Specified premises or circumstances for purposes of clause 23
	<i>Transport</i>
1	When the person is on a public transport service, except— <ul style="list-style-type: none"> (a) when on a ship that does not have an enclosed space for passengers; or (b) when they are a passenger within their allocated carriage on a specified KiwiRail service
2	When the person is on a school transport service
3	When the person is at arrival or departure points for a public transport service
	<i>Businesses and services</i>
4	When the person is at the premises of the following businesses and services, while they are on the parts of the premises that are open to the public: <ul style="list-style-type: none"> (a) retail businesses or services: (b) public facilities (excluding swimming pools): (c) pharmacies: (d) veterinary services or animal health and welfare services
5	When the person is in a public area of the following businesses or services: <ul style="list-style-type: none"> (a) a court or tribunal, except where a judicial officer has given a direction that face coverings are not required in the room where the hearing is held: (b) a specified social service: (c) premises operated by New Zealand Post Limited, including a customer service counter: (d) premises operated by a central government agency, a local authority, or the New Zealand Police, except DOC visitor accommodation
6	When the person is at the premises of a health service other than a pharmacy, but only if the person is not a patient or worker of the health service
	<i>Events and gatherings</i>
7	When the person is a worker at a gathering, but only when they are working with customers or clients at the gathering

Subpart 2—When certain workers must comply with medical-grade face covering rule

Item	Specified types of workers for purposes of clause 23A	Specified circumstances
	<i>Businesses and services</i>	
1	A worker at a food and drink business or service	When they are working with members of the public, customers, or clients on the premises of the food and drink business or service, and only on the parts of the premises that are open to the public
2	A worker at a close-proximity business or service	When they are working with customers or clients on the premises of, or in the course of carrying out the activities of, the business

Item	Specified types of workers for purposes of clause 23A	Specified circumstances
3	<i>Gatherings and events</i> A worker at an event	or service, and only so far as is reasonably practicable When they are working with members of the public, customers, or clients at the event, and only on the parts of the premises that are open to the public

Schedule 3
Parts 2, 2A, and 3 of Schedule 7 replaced

cl 19

Part 2		
COVID-19 provisions that have effect		
Clause	Brief description	Modification
	<i>Face coverings</i>	
cl 23	Person must comply with face covering rule in specified premises or circumstances	For the purposes of clause 23,— (a) the second column of subpart 1 of Part 2A of this schedule specifies the premises or circumstances in which a person must comply with the face covering rule; and (b) the items in the second column of that subpart are subject to the modifications (if any) in the third column.
cl 23A	Certain workers must comply with medical-grade face covering rule	For the purposes of clause 23A,— (a) the second column of subpart 2 of Part 2A of this schedule specifies the types of workers that must comply with the medical-grade face covering rule; and (b) the third column of subpart 2 of Part 2A of this schedule specifies the circumstances in which the worker must comply with the medical-grade face covering rule.
cl 24	Business or service must have systems and processes to ensure workers wear face coverings or medical-grade face coverings	
	<i>Access must not be denied on vaccination grounds</i>	
cl 31	Person must not be denied access to certain premises on vaccination grounds	
cl 32	Person must not be denied access to goods or services from certain premises on vaccination grounds	
cl 33	Business or service in control of premises must allow people access to designated premises	
cl 33A	Business or service in control of premises A must allow student access for purpose of participating in extra-curricular or curricular activity in premises B	
	<i>Physical distancing and capacity limits</i>	
cl 40	Business or service must comply with capacity limit based on specified physical distancing rule	(1) Clause 40 applies only to an indoor defined space in— (a) a public facility; or

Clause	Brief description	Modification
		(b) a retail business or service other than a transport station retail business or service; or
		(c) a tertiary education provider.
		(2) For the purposes of clause 40(1), the specified physical distancing rule is the 1-metre physical distancing rule.
cl 41	Business or service must comply with fixed capacity limit based on specified physical distancing rule	(1) Clause 41 applies only to an indoor defined space in—
		(a) a gym; or
		(b) a food and drink business or service.
		(2) For the purposes of clause 41(1)(a), the fixed number is 200.
		(3) For the purposes of clause 41(1)(b), the specified physical distancing rule is the 1-metre physical distancing rule.
	<i>Gatherings</i>	
cl 42	No gatherings unless permitted	
cl 47	Gathering permitted if indoor capacity limit not exceeded	(1) For the purposes of clause 47(2)(a), the fixed number is 200.
		(2) For the purposes of clause 47(2)(a), the specified physical distancing rule is the 1-metre physical distancing rule.
		(3) The requirement in clause 47(4) does not apply.
cl 47A	Gathering permitted if outdoors	
	<i>Events</i>	
cl 51	No event unless permitted	
cl 54	Fixed capacity indoor event permitted	(1) For the purposes of clause 54(2)(a), the fixed number is 200.
		(2) For the purposes of clause 54(2)(b), the specified physical distancing rule is the 1-metre physical distancing rule.
		(2) The requirements in clause 54(4) and (5) do not apply.
cl 54A	Outdoor event permitted	
	<i>Food and drink</i>	
cl 69	Customers and clients at food and drink business or service must comply with seating requirements	Clause 69 does not apply outdoors.

Part 2A

When person must comply with face covering rule or medical-grade face covering rule

Subpart 1—When person must comply with face covering rule

Item	Specified premises or circumstances for purposes of clause 23	Modification
	<i>Transport</i>	
1	When the person is on a public transport service, except— (a) when on a ship that does not have an enclosed space for passengers; or (b) when they are a passenger within their allocated carriage on a specified KiwiRail service	Despite clause 11(3)(a)(i), the person must comply with the face covering rule if they are aged 8 years or over or a student in year 4 or above.
2	When the person is on a school transport service	Despite clause 11(3)(a)(i), the person must comply with the face covering rule if they are aged 8 years or over or a student in year 4 or above.
3	When the person is at arrival or departure points for a public transport service	
4	When the person is at the premises of the following businesses and services, while they are on the parts of the premises that are open to the public: (a) retail businesses or services: (b) public facilities (excluding swimming pools): (c) pharmacies: (d) veterinary services or animal health and welfare services	
5	When the person is in a public area of the following businesses or services: (a) a court or tribunal, except where a judicial officer has given a direction that face coverings are not required in the room where the hearing is held: (b) a specified social service: (c) premises operated by New Zealand Post Limited, including a customer service counter: (d) premises operated by a central government agency, a local authority, or the New Zealand Police, except	

Item	Specified premises or circumstances for purposes of clause 23	Modification
6	<p>Department of Conservation visitor accommodation</p> <p>When the person is at the premises of a health service other than a pharmacy, but only if the person is not a patient or worker of the health service</p>	The person must only comply with the face covering rule so far as is reasonably practicable
7	When the person is at the premises of a food and drink business or service	
8	When the person is at the premises of a close-proximity business or service	
9	<p>If the person is a worker delivering goods to premises and is in close proximity to a client or customer</p> <p><i>Gatherings and events</i></p>	
10	<p>When the person is at a permitted gathering other than a gathering—</p> <p>(a) at a private dwellinghouse; or</p> <p>(b) in a defined space or premises of a workplace (other than a vehicle in use as part of a public transport service) being used exclusively for the gathering</p>	The person must only comply with the face covering rule so far as is reasonably practicable
11	When the person is a worker at a permitted gathering, but only when working with customers or clients at the gathering	
12	When the person is at a permitted event	
13	When the person is at a licensed early childhood service, but only if they are a visitor	
14	<p>When the person is at a registered school and is—</p> <p>(a) a student receiving education services at that school who is—</p> <p>(i) in year 4 to 13; but</p> <p>(ii) not in a specified composite class; or</p> <p>(b) a visitor to that school</p>	<p>Clause 23(2) does not apply to item 13.</p> <p>(1) Clause 23(2) does not apply to item 14.</p> <p>(2) Clause 11(3)(a)(i) does not apply to item 14(a).</p>
15	<p>When the person is at tertiary education premises and is—</p> <p>(a) on the parts of the premises that are open to the public; or</p> <p>(b) attending formal teaching or learning activities</p>	

Subpart 2—When certain workers must comply with medical-grade face covering rule

Item	Specified types of workers for purposes of clause 23A	Specified circumstances
	<i>Businesses and services</i>	
1	A worker at a food and drink business or service	When they are working with members of the public, customers, or clients on the premises of the food and drink business or service, and only on the parts of the premises that are open to the public
2	A worker at a gym	When they are working with members of the public, customers, or clients on the premises of the gym, and only on the parts of the premises that are open to the public
3	A worker at a close-proximity business or service	When they are working with customers or clients on the premises of, or in the course of carrying out the activities of, the business or service, and only so far as is reasonably practicable
	<i>Gatherings and events</i>	
4	A worker at a permitted event	When they are working with members of the public, customers, or clients at the event, and only on the parts of the premises that are open to the public
	<i>Education</i>	
5	A staff member working to provide, or support the provision of, education services to students at a registered school	When they are providing, or supporting the provision of, services to a student who is— (a) in year 4 to 13; but (b) not in a specified composite class
	<i>Vaccine-mandate work</i>	
6	A person carrying out vaccine-mandate work	When they are— (a) working with members of the public, customers, or clients in the course of carrying out the vaccine-mandate work; or (b) at the premises where the vaccine-mandate work is carried out, and only on the parts of the premises that are open to the public

Dated at Wellington this 1st day of April 2022.

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 **Protection Framework Order**) and the COVID-19 Public Health Response (Vaccinations) Order 2021 (the **Vaccinations Order**). It comes into force at 11.59 pm on 4 April 2022.

Amendments to Protection Framework Order

Part 1 amends the Protection Framework Order to—

- provide for a *new Part 2* (COVID-19 provisions that have effect) in each of Schedule 5 (Green), Schedule 6 (Orange), and Schedule 7 (Red);
- remove the COVID-19 vaccination certificate rules (the **CVC rules**) so that regulated businesses and services do not need to require vaccination certificates or decide whether to operate under CVC rules;
- remove all outdoor capacity limits;
- retain the requirement to wear a medical-grade face covering under the Red setting for workers who carry out work that is subject to a vaccine mandate until the commencement of this order but will cease to be subject to a vaccine mandate after the changes made to the Vaccinations Order by *Part 2* of this order;
- extend face covering requirements to workers at indoor events under the Orange setting, and require workers at food and drink businesses, close-proximity businesses, and events to wear a medical-grade face covering under the Orange setting.

Amendments to Vaccinations Order

Part 2 amends the Vaccinations Order to remove the requirement to be vaccinated for the following persons:

- workers at affected education services;
- providers of home-based education and care services;
- workers at food and drink businesses or services;
- workers who carry out work at gyms;
- workers who carry out work at permitted events;
- workers at close-proximity businesses or services;
- workers who carry out work for tertiary education providers at tertiary education premises that are located in an area described in Part 1 of Schedule 7 of the Protection Framework Order.

Part 2 also makes further consequential amendments to remove references to those persons from the Vaccinations Order.

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*: 1 April 2022.

Notes

1 *General*

This is a consolidation of the COVID-19 Public Health Response (Protection Framework and Vaccinations) Amendment Order 2022 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 (Revocations) Order 2022 (SL 2022/254): clause 3(2)