

Version
as at 17 February 2022



COVID-19 Public Health Response Amendment Act 2021

Public Act 2021 No 48
Date of assent 19 November 2021
Commencement see section 2

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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 Act is administered by the Ministry of Health.

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the COVID-19 Public Health Response Amendment Act 2021.

2 Commencement

- (1) The following provisions come into force on a date appointed by the Governor-General by Order in Council:
 - (a) section 5(3):
 - (b) section 7 (to the extent that it relates to new section 11(2) of the COVID-19 Public Health Response Act 2020):
 - (c) section 13 (to the extent that it relates to new section 26(4) of that Act):
 - (d) section 18:
 - (e) section 22 (to the extent that it relates to new section 32Q(1)(c) of that Act).
- (2) The rest of this Act comes into force on the day after Royal assent.
- (3) An Order in Council made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 2(1): sections 5(3), 7, 13, and 22 (to the extent specified) brought into force, on 4 December 2021, by clause 2 of the COVID-19 Public Health Response Amendment Act 2021 Commencement Order 2021 (SL 2021/392).

Section 2(1)(d): section 18 brought into force, on 17 February 2022, by clause 2 of the COVID-19 Public Health Response Amendment Act 2021 Commencement Order 2022 (SL 2022/18).

Part 1 Amendments to principal Act

3 Principal Act

This Part amends the COVID-19 Public Health Response Act 2020.

4 Section 3 amended (Repeal of this Act)

Replace section 3(3) with:

- (3) If not repealed sooner under subsection (1), this Act is repealed on the close of 13 May 2023.

5 Section 5 amended (Interpretation)

- (1) In section 5(1), repeal the definition of **MBIE**.

- (2) In section 5(1), insert in their appropriate alphabetical order:

chief executive means the chief executive of the responsible agency

other place of isolation or quarantine means a place of isolation or quarantine designated under a COVID-19 order that is not an MIQF

responsible agency means the department of the public service or agency or entity that, with the authority of the Prime Minister, is responsible for the administration of MIQFs

room, in relation to an MIQF, other place of isolation or quarantine, or a place of self-isolation or quarantine, means the area allocated to a person for the purpose of undertaking isolation or quarantine, including 1 or more rooms and any outdoor space such as a garden or balcony

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

infringement fee, in relation to an infringement offence, means the infringement fee for the offence specified in section 26(4)(a) or prescribed by regulations

- (4) In section 5(1), repeal the definition of **relevant Minister**.

6 Section 10 replaced (Director-General may make COVID-19 orders)

Replace section 10 with:

10 Director-General may make COVID-19 orders

The Director-General may make a COVID-19 order in accordance with the following provisions:

- (a) the order may apply only within boundaries described in the order that—
 - (i) are relevant to the circumstances addressed by the order; and
 - (ii) are described in a practical way, whether by reference to roads, geographical features (such as rivers or ranges), or in any other way that enables the boundaries to be readily ascertained; and
- (b) the Director-General must be satisfied that the order—
 - (i) is urgently needed to prevent or contain the outbreak or spread of COVID-19; and
 - (ii) is the most appropriate way of addressing those matters at the time; and
- (c) the Director-General must be satisfied that the order does not limit or is a justified limit on the rights and freedoms in the New Zealand Bill of Rights Act 1990; and
- (d) the Director-General must be satisfied that the order is appropriate to achieve the purpose of this Act.

7 Section 11 replaced (Orders that can be made under this Act)

Replace section 11 with:

11 Orders that can be made under this Act

- (1) The Minister or the Director-General may, in accordance with section 9 or 10 (as the case may be), make an order under this section for 1 or more of the following purposes:
 - (a) to require persons to refrain from taking any specified actions or to take any specified actions, or comply with any specified measures, so as to contribute or be likely to contribute to either or both of the following:
 - (i) preventing, containing, reducing, controlling, managing, eliminating, or limiting the risk of the outbreak or spread of COVID-19;
 - (ii) avoiding, mitigating, or remedying the actual or potential adverse public health effects of the outbreak of COVID-19 (whether direct or indirect);
 - (b) by way of example under paragraph (a), requiring persons to do any of the following:

- (i) stay in any specified place or refrain from going to any specified place:
 - (ii) refrain from associating with specified persons:
 - (iii) stay physically distant from any persons in any specified way:
 - (iv) refrain from travelling to or from any specified area:
 - (v) refrain from carrying out specified activities (for example, business activities involving close personal contact) or carry out specified activities only in any specified way or in compliance with specified measures:
 - (vi) be isolated or quarantined in any specified place or in any specified way:
 - (vii) refrain from participating in gatherings of any specified kind, in any specified place, or in specified circumstances:
 - (viii) report for and undergo a medical examination or testing of any kind, and at any place or time, specified and in any specified way or specified circumstances:
 - (ix) provide, in specified circumstances or in any specified way, any information necessary for the purpose of contact tracing:
 - (x) satisfy any specified criteria before entering New Zealand from a place outside New Zealand, which may include being registered to enter an MIQF on arrival in New Zealand:
- (c) in relation to an MIQF, other place of isolation or quarantine, or a place of self-isolation or quarantine, to require specified actions to be taken, or require compliance with any specified measures, for the purpose of managing the movement of people to, from, and within the MIQF, other place of isolation or quarantine, or place of self-isolation or quarantine, including (without limitation) any of the following:
- (i) giving directions that relate to the movement of people to, from, and within the MIQF, other place of isolation or quarantine, or place of self-isolation or quarantine:
 - (ii) imposing restrictions and conditions that relate to the movement of people to, from, and within the MIQF, other place of isolation or quarantine, or place of self-isolation or quarantine:
 - (iii) permitting people to leave their rooms in the MIQF, other place of isolation or quarantine, or place of self-isolation or quarantine in accordance with any requirements or conditions specified in the order:
- (d) in relation to any places, premises, craft, vehicles, or other things, to require specified actions to be taken, require compliance with any speci-

fied measures, or impose specified prohibitions, so as to contribute or be likely to contribute to either or both of the following:

- (i) preventing, containing, reducing, controlling, managing, eliminating, or limiting the risk of the outbreak or spread of COVID-19:
 - (ii) avoiding, mitigating, or remedying the actual or potential adverse public health effects of the outbreak of COVID-19 (whether direct or indirect):
- (e) by way of example under paragraph (d), doing any of the following:
- (i) requiring any places, premises, craft, vehicles, or other things to be closed or only open if specified measures are complied with:
 - (ii) prohibiting any craft, vehicles, or other things from entering any port or place, or permitting the entry of any craft, vehicles, or other things into any port or place only if specified measures are complied with:
 - (iii) prohibiting gatherings of any specified kind in any specified places or premises, or in any specified circumstances:
 - (iv) requiring any places, premises, craft, vehicles, or other things to be isolated, quarantined, or disinfected in any specified way or specified circumstances:
 - (v) requiring the testing of any places, premises, craft, vehicles, or other things in any specified way or specified circumstances:
- (f) in relation to laboratories that undertake COVID-19 testing, by—
- (i) setting quality control measures and minimum standards:
 - (ii) requiring COVID-19 test results to be reported to the Director-General’s public health national testing repository:
 - (iii) managing the supply of testing consumables (such as reagents and swabs) used by the laboratories:
 - (iv) providing differently for different classes of testing laboratories (for example, different provisions for laboratories depending on whether they are funded publicly or privately):
- (g) requiring the owner or any person in charge of a specified laboratory that undertakes COVID-19 testing to—
- (i) deliver or use, in accordance with directions given under the order, specified quantities of COVID-19 testing consumables that the Minister considers necessary for the purposes of the public health response to COVID-19:
 - (ii) undertake COVID-19 testing solely for the purposes of the public health response to COVID-19 while subject to the order, whether or not the laboratory is contracted by the Crown for that purpose.

- (2) An order made by the Minister may specify which breaches of an order made by the Minister or the Director-General are infringement offences for the purposes of section 26(3), and may specify that a breach of an order is a particular class of infringement offence (with the corresponding penalties) for the purposes of regulations made under section 33(1)(b).
- (3) For the purposes of this section and section 12, **things** includes animals, goods, businesses, records, equipment, and supplies.
- (4) All goods prohibited from import under a COVID-19 order are deemed to be included among goods prohibited from import under section 96 of the Customs and Excise Act 2018, and the provisions of that Act apply to those goods accordingly.
- (5) A COVID-19 order is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).
- (6) If a COVID-19 order authorises the Director-General or chief executive to do anything specified in section 12(1)(d) by notice,—
- (a) the notice is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements), unless it applies only to 1 or more named persons or things; and
- (b) the order must contain a statement to that effect.

Legislation Act 2019 requirements for secondary legislation referred to in subsection (5)

Publication PCO must publish it on the legislation website and notify it in the *Gazette* LA19 s 69(1)(c)

Presentation The Minister must present it to the House of Representatives LA19 s 114

Disallowance It may be disallowed by the House of Representatives LA19 ss 115, 116

This note is not part of the Act.

Legislation Act 2019 requirements for secondary legislation referred to in subsection (6)(a)

Publication The maker must publish it in accordance with the Legislation (Publication) Regulations 2021, unless it is published by PCO LA19 ss 69, 73, 74(1)(aa)

Presentation The Minister must present it to the House of Representatives, unless it is excluded by section 114(2) of the Legislation Act 2019 LA19 s 114

Disallowance It may be disallowed by the House of Representatives, unless it is excluded by section 115 of the Legislation Act 2019 LA19 ss 115, 116

This note is not part of the Act.

8 New section 11A inserted (Compensation or payment relating to requisitions)

After section 11, insert:

11A Compensation or payment relating to requisitions

- (1) This section applies if an order is made under section 11(1)(g).

- (2) The owner of a testing laboratory injuriously affected by the requisitioning of testing consumables is entitled to receive compensation from the Crown at the market rate for the consumables requisitioned.
- (3) The owner of a testing laboratory required to undertake COVID-19 testing solely for the purposes of the public health response to COVID-19 is entitled to be paid by the Crown for its services at the market rate for those services.
- (4) All questions and disputes relating to claims for compensation or payment under this section must be heard and determined by the District Court, whose decision is final.

9 Section 12 replaced (General provisions relating to COVID-19 orders)

Replace section 12 with:

12 General provisions relating to COVID-19 orders

- (1) A COVID-19 order may—
 - (a) impose different measures, including requirements, restrictions, directions, and conditions, for different circumstances and different classes of persons, places, premises, craft, vehicles, or other things:
 - (b) apply,—
 - (i) in relation to persons, generally to all persons in New Zealand or to any person or specified class of persons in New Zealand:
 - (ii) in relation to places, premises, craft, vehicles, or other things, to any class or to all of them:
 - (iii) in relation to anything else,—
 - (A) generally throughout New Zealand:
 - (B) in any area, however described:
 - (c) provide that any provision of a COVID-19 order (even if the provision is beneficial) does not apply in any specified circumstances, in any specified way, or to any specified persons, places, premises, craft, vehicles, or other things, or to any specified class of persons, places, premises, craft, vehicles, or other things:
 - (d) authorise the Director-General or the chief executive, subject to any criteria or conditions specified in the order, to do any of the following things by written notice:
 - (i) specify, determine, designate, define, or approve any matters, impose conditions, or give directions, required for the operation of a provision of a COVID-19 order, including matters that affect or determine the application, operation, or scope of a provision:
 - (ii) determine that any provision of a COVID-19 order (even if the provision is beneficial) does not apply in any specified circumstances, in any specified way, or to any specified persons, places,

- premises, craft, vehicles, or other things, or to any specified class of persons, places, premises, craft, vehicles, or other things:
- (e) if any thing can be prohibited under section 11, permit that thing but only subject to specified conditions.
- (2) However, a COVID-19 order—
- (a) may not apply only to a specific individual:
 - (b) if made by the Director-General, may apply only within the boundaries described under section 10(a):
 - (c) may not be made under section 11(1)(e)(i) in relation to—
 - (i) any premises that are, or any part of any premises that is, used solely as a private dwellinghouse:
 - (ii) any premises that are, or are part of, a prison (within the meaning of section 3(1) of the Corrections Act 2004):
 - (d) may not be made under section 11(1)(e)(i) or (iii) in relation to—
 - (i) any premises within the parliamentary precincts (within the meaning of section 3 of the Parliamentary Service Act 2000):
 - (ii) any premises whose principal or only use is as a courtroom or Judge’s chambers or a court registry.
- (3) If a COVID-19 order or a notice referred to in subsection (1)(d) disapplies a provision or requirement of an order, subject to compliance with a stated condition, a person who breaches the condition must be treated as breaching that provision or requirement.
- (4) For the purposes of subsection (1)(c) and (d), it does not matter how the disapplication of a provision of a COVID-19 order is expressed (for example, it may be expressed as an exemption, an exclusion, or an authority to do something that is otherwise prohibited by the order).

10 Section 13 amended (Effect of COVID-19 orders)

Replace section 13(1)(b) with:

- (b) it confers a discretion on any person, or allows any matter or thing to be granted, specified, determined, designated, defined, approved, or disappplied by any person, or allows a person to impose conditions or give directions, whether or not there are prescribed criteria.

11 Section 21 amended (Power to give directions)

- (1) In section 21, after “a COVID-19 order”, insert “or a rule made under section 32Q”.
- (2) In section 21(a), after “the order”, insert “or rule”.

12 Section 22 amended (Power to close roads and public places and stop vehicles)

- (1) In section 22(2), replace “authority” with “supervision”.
- (2) After section 22(3), insert:
 - (3A) For the purpose of enforcing or monitoring compliance with a COVID-19 order that restricts movement by persons with or without vehicles, a constable may stop persons and vehicles at any road block or checkpoint established for that purpose.
- (3) After section 22(4), insert:
 - (5) An enforcement officer may also stop persons and vehicles for the purpose stated in subsection (3A) if acting under the supervision of a constable.
- (6) For the purpose of subsection (5) only, **enforcement officer** means a person authorised in accordance with section 18 who is—
 - (a) a member of the Armed Forces (as defined in section 2(1) of the Defence Act 1990);
 - (b) any person whom the Commissioner recognises as being—
 - (i) a Māori warden; or
 - (ii) a nominated representative of an iwi organisation; or
 - (iii) a Pasifika warden; or
 - (iv) a community patroller.
- (7) Section 18 applies with any necessary modifications for the purpose of subsection (6).

13 Section 26 replaced (Offences relating to compliance with orders)

Replace section 26 with:

26 Offences and infringement offences

- (1) A person commits an offence if the person intentionally fails to comply with a COVID-19 order.
- (2) A person who commits an offence against subsection (1) is liable on conviction to,—
 - (a) for an individual,—
 - (i) imprisonment for a term not exceeding 6 months; or
 - (ii) a fine not exceeding \$12,000;
 - (b) for any other person, a fine not exceeding \$15,000.
- (3) A person commits an infringement offence if the person—
 - (a) does anything specified as an infringement offence in this Act or a COVID-19 order; or

- (b) breaches a rule made under section 32Q.
- (4) A person who commits an infringement offence is liable to—
 - (a) an infringement fee of,—
 - (i) for an individual, \$4,000 or any lesser or equal amount prescribed by regulations made under section 33; or
 - (ii) for any other person, \$12,000 or any lesser or equal amount prescribed by the regulations; or
 - (b) a fine imposed by a court not exceeding,—
 - (i) for an individual, \$12,000 or any lesser or equal amount prescribed by the regulations; or
 - (ii) for any other person, \$15,000 or any lesser or equal amount prescribed by the regulations.

14 Section 27 amended (Offences relating to exercise of enforcement powers)

Replace section 27(4) with:

- (4) A person who commits an offence against any of subsections (1) to (3) is liable on conviction to,—
 - (a) for an individual,—
 - (i) imprisonment for a term not exceeding 6 months; or
 - (ii) a fine not exceeding \$12,000;
 - (b) for any other person, a fine not exceeding \$15,000.

15 Section 28 amended (Proceedings for infringement offences)

Replace section 28(2) with:

- (2) Proceedings commenced in the way described in subsection (1)(a) do not require the leave of a District Court Judge or Registrar under section 21(1)(a) of the Summary Proceedings Act 1957.
- (3) *See* section 21 of the Summary Proceedings Act 1957 for the procedure that applies if an infringement notice is issued.

16 Section 32B amended (MIQF costs subject to recovery)

In section 32B, delete “relevant”.

17 Section 32C amended (Criteria for cost recovery)

In section 32C, delete “relevant”.

18 Section 32E amended (Persons in respect of whom prescribed charges payable)

- (1) Repeal section 32E(1)(a)(ii).
- (2) Replace section 32E(2) with:

- (2) An **exempt person** is a person who is, or is a member of a class of persons that is, exempted under regulations made under section 33A from paying the prescribed charges.

19 Section 32F amended (Exemptions, waivers, and refunds)

Replace section 32F(2) with:

- (2) Regulations made under section 33A may authorise the Minister or the chief executive to exempt, waive, or refund the whole or part of any prescribed charge, or defer the time for payment, in any particular case or any class or classes of cases (and may or may not prescribe criteria to be applied by the Minister or the chief executive in doing so).

20 Section 32G amended (Payment of charge)

In section 32G(2), delete “of MBIE”.

21 Section 32H amended (Express authorisation for purpose of section 65K of Public Finance Act 1989)

In section 32H, replace “relevant Minister or the chief executive of MBIE” with “Minister or the chief executive”.

22 New subpart 3B of Part 2 inserted

After section 32I, insert:

Subpart 3B—Management of MIQFs and other places of isolation or quarantine

Management of allocations

32J Interpretation

In this subpart, unless the context otherwise requires,—

confirmed allocation means a confirmed allocation issued under the managed isolation allocation system to an MIQF

managed isolation allocation system means a managed isolation allocation system operated by or on behalf of the New Zealand Government

offline allocation means an allocation in the managed isolation allocation system that is not an online allocation

online allocation means an allocation obtained by registering on the managed isolation allocation system online portal and obtaining a voucher

New Zealander means a person who is a New Zealand citizen or residence class visa holder.

32K Chief executive responsible for operation of managed isolation allocation system

- (1) The chief executive is responsible for the operation of the managed isolation allocation system.
- (2) The chief executive must ensure that the managed isolation allocation system does not at any time permit the issue of more confirmed allocations than the number of available allocations.

32L Apportionment between allocations

The Minister must determine the apportionment between the issue of online allocations and offline allocations.

32M Online allocations

- (1) Online allocations to MIQFs may be issued on a basis that the Minister decides.
- (2) In making a decision under subsection (1), the Minister must take into account—
 - (a) the right of New Zealanders under section 18(2) of the New Zealand Bill of Rights Act 1990 to enter New Zealand; and
 - (b) the need to mitigate, so far as possible, the social, economic, and other impacts of COVID-19.
- (3) The basis on which online allocations to MIQFs are issued may—
 - (a) distinguish between different classes of persons entering New Zealand (for example, between New Zealanders and non-New Zealanders); and
 - (b) prioritise allocations as between different classes of persons; and
 - (c) reserve for a particular class, or any classes, of persons a specific proportion of allocations.

32N Offline allocations for individuals and groups

- (1) Offline allocations to MIQFs may be issued to persons who meet the eligibility criteria determined by the Minister.
- (2) An offline allocation may be—
 - (a) an individual offline allocation;
 - (b) a group offline allocation.
- (3) In determining the eligibility criteria under subsection (1), the Minister must take into account—
 - (a) the right of New Zealanders under section 18(2) of the New Zealand Bill of Rights Act 1990 to enter New Zealand; and
 - (b) the need to mitigate, as far as possible, the social, economic, and other impacts of COVID-19.

- (4) The chief executive must determine individual offline allocations on the basis of the eligibility criteria determined under subsection (1) for those allocations.
- (5) The Minister must determine group offline allocations on the basis of the eligibility criteria determined under subsection (1) for those allocations.
- (6) The chief executive must publish on the responsible agency's Internet site—
 - (a) the eligibility criteria determined under subsection (1) for individual offline allocations and group offline allocations; and
 - (b) approved group offline allocations.

32O Amendment and cancellation of allocations

The chief executive may at any time—

- (a) amend an online or offline allocation issued to any person (for example, if the starting date for isolation specified in an offline allocation issued to an individual is required to be changed because of a travel delay):
- (b) cancel an online or offline allocation issued to any person (for example, if the person no longer requires the allocation, or can no longer use the allocation because of a cancelled flight).

Provisions relating to MIQFs or other places of isolation or quarantine

32P Restrictions on movement within MIQFs or other places of isolation or quarantine

- (1) A person required under a COVID-19 order to reside for any period in an MIQF or other place of isolation or quarantine must remain in their room, except—
 - (a) to do an activity (such as taking fresh air) authorised, and subject to any conditions imposed, by the chief executive; or
 - (b) if they need to leave to preserve or protect their own or another person's life, health, or safety in an emergency; or
 - (c) to attend any court, tribunal, New Zealand Parole Board hearing, or other judicial institution that they are required or permitted to attend by that institution; or
 - (d) if the chief executive is satisfied, on the basis of the advice of a suitably qualified health practitioner, that the person needs to leave—
 - (i) to access medical services; or
 - (ii) to move to another place of isolation or quarantine (for example, for temporary or emergency care while the person is sick); or
 - (e) if they are required to leave under Part 4 of the Health Act 1956; or
 - (f) if they are required to move to another place of isolation or quarantine by—

- (i) a court order; or
 - (ii) any other obligation imposed under an enactment that is related to the detention of the person (for example, a direction of the New Zealand Parole Board or a probation officer); or
 - (g) otherwise as permitted under a COVID-19 order.
- (2) However, a person leaving their MIQF or other place of isolation or quarantine under this section must comply with any directions of, or conditions imposed by, the chief executive.
- (3) The chief executive may choose not to exercise their power under subsection (1)(a) on any of the following grounds:
 - (a) it is necessary to prevent the risk or spread of COVID-19 and the chief executive has consulted the Director-General:
 - (b) to ensure the health and safety of workers and returnees in an MIQF or other place of isolation or quarantine:
 - (c) to ensure the security of an MIQF or other place of isolation or quarantine.
- (4) In deciding whether to choose not to exercise their power under subsection (1)(a), the chief executive—
 - (a) must consider the impact on the person's rights and freedoms under the New Zealand Bill of Rights Act 1990; and
 - (b) may have regard to the operational and resourcing implications of the decision.
- (5) A person who intentionally fails to comply with subsection (1) or (2) commits an offence and is liable on conviction to—
 - (a) imprisonment for a term not exceeding 6 months; or
 - (b) a fine not exceeding \$12,000.
- (6) A failure to comply with subsection (1) or (2) is an infringement offence.

32Q Chief executive may make rules

- (1) The chief executive may make rules for the purpose of ensuring the effective and orderly operation of MIQFs, including (without limitation) rules—
 - (a) prohibiting or restricting (with or without conditions) the things (including alcohol, goods, and other items) that can be brought into, sent out of, or removed from an MIQF:
 - (b) restricting or prohibiting (with or without conditions) specified behaviour of persons within, or going to or from, an MIQF:
 - (c) specifying that a breach of a rule is a particular class of infringement offence (with the corresponding penalties) for the purposes of regulations made under section 33(1)(b).

- (2) The chief executive must be satisfied that the rules do not limit or are a justified limit on the rights and freedoms in the New Zealand Bill of Rights Act 1990.
- (3) Rules made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	The maker must publish it in accordance with the Legislation (Publication) Regulations 2021	LA19 s 74(1)(aa)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

32R Power to hold things

- (1) The chief executive may hold anything that a person in isolation or quarantine in an MIQF possesses in the MIQF, or attempts to bring into the MIQF, in breach of rules made under section 32Q (for example, alcohol in excess of limits specified in the rules).
- (2) The chief executive may hold anything being delivered to a person staying in isolation or quarantine in an MIQF if the chief executive has reasonable grounds to believe the thing being delivered is not permitted under the rules.
- (3) Anything held by the chief executive under this section may be held only for the duration of the person's stay in isolation or quarantine in the MIQF.

Complaints process

32S Complaints process relating to management of MIQFs

- (1) The chief executive must establish a complaints process that provides for the responsible agency to receive and investigate complaints from affected individuals about—
 - (a) the operation and day-to-day running of an MIQF; or
 - (b) exemptions from any requirement to remain in an MIQF; or
 - (c) prescribed charges for MIQF costs; or
 - (d) MIQF allocations; or
 - (e) the managed isolation allocation system; or
 - (f) managed isolation and quarantine.
- (2) The chief executive must ensure that, as far as practicable, the process enables complaints to be dealt with fairly, efficiently, and effectively.
- (3) The chief executive must ensure that the complaints process is publicly available, by publishing details of the complaints process on the responsible agency's Internet site or in some other manner accessible to the public free of charge.

*Information collection***32T Persons in respect of whom charges are payable to provide contact details**

- (1) A person in respect of whom charges are payable under section 32E must provide the responsible agency with the following contact information about the person liable to pay the prescribed charges for MIQF costs for the purpose of invoicing those charges:
 - (a) their full name (as it appears on their passport, if the person liable to pay is an individual):
 - (b) a phone number on which they can be contacted:
 - (c) an email address at which they can be contacted:
 - (d) their contact address.
- (2) If the contact information required by subsection (1) changes before the prescribed charges are paid, the person responsible must provide those updated details as soon as practicable to the responsible agency.
- (3) A failure to comply with subsection (1) or (2) is an infringement offence.

23 Section 33 replaced (Regulations)

Replace section 33 with:

33 Regulations

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations—
 - (a) prescribing penalties for infringement offences, which,—
 - (i) in the case of infringement fees, must not be more than—
 - (A) \$4,000, for an individual; or
 - (B) \$12,000, for any other person; and
 - (ii) in the case of fines, must not be more than—
 - (A) \$12,000, for an individual; or
 - (B) \$15,000, for any other person:
 - (b) prescribing different penalties for different infringement offences or classes of infringement offences, defined in any way (including by the seriousness of the offence or whether it is a repeat offence), so that (for example)—
 - (i) the regulations may prescribe a fixed infringement fee or fine, or different infringement fees or fines, for an infringement offence under section 32P(6) or 32T(3):
 - (ii) a COVID-19 order may specify that an infringement offence specified in a COVID-19 order belongs to a certain class (with corresponding penalties):

- (iii) a rule made under section 32Q may specify that an infringement offence for a breach of the rule belongs to a certain class (with corresponding penalties):
 - (c) prescribing the form of infringement notices and reminder notices, and the information to be included in the notices:
 - (d) providing for anything that this Act says may or must be provided for by regulations:
 - (e) providing for anything incidental that is necessary for carrying out, or giving full effect to, this Act.
- (2) Before recommending that regulations be made under subsection (1)(a) or (b), the Minister must consider, if relevant,—
 - (a) the severity and impact of the breaches specified as infringement offences or classes of infringement offences; and
 - (b) the appropriateness of the penalty for any group likely to be affected by the specified offences or specified classes of offences, including equity considerations; and
 - (c) penalties for comparable offences or classes of offences in other legislation (if any).
- (3) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

24 Section 33A amended (Regulations relating to cost recovery)

In section 33A(1), replace “relevant Minister made after consultation with the Minister (as defined in this Act)” with “Minister”.

25 New sections 33B and 33C inserted

After section 33A, insert:

33B Incorporation of material by reference in COVID-19 orders

- (1) The following standards, requirements, recommended practices, or material that is relevant to the purpose of this Act may be incorporated by reference into any COVID-19 order or other secondary legislation (an **instrument**) made or given under this Act:
 - (a) standards, requirements, or recommended practices published by or on behalf of any body or person in New Zealand or in any other country:

- (b) standards, requirements, or recommended practices of international or national organisations:
 - (c) standards, requirements, or recommended practices of any country or jurisdiction:
 - (d) any other material that, in the opinion of the Minister (or, as appropriate, the Director-General), is too large or impractical to be printed as part of the instrument concerned.
- (2) Material may be incorporated in an instrument in whole or in part, and either unmodified or with any additions, omissions, or variations that are specified in the instrument.
 - (3) Material that is incorporated by reference in an instrument is to be treated for all purposes as forming part of that instrument.
 - (4) Every reference in an instrument to the current edition of any standard work of reference is, unless the instrument otherwise specifies, to be construed at any particular time as the latest edition of that work available at that time, together with any amendments, additions, and deletions made to or from it up to that time.
 - (5) If any amendment to material incorporated by reference under this section (other than to any standard work of reference) is made, that amendment does not take effect until the date specified for that purpose by the Director-General by notification in the *Gazette*.
 - (6) An instrument that incorporates material by reference under this section must state where the material can be accessed in accordance with section 33C(3).
 - (7) A **standard work of reference** is a work of reference that the Director-General considers is recognised either domestically by the Ministry of Health or internationally, as one to refer to on its subject matter.

33C Availability and proof of material incorporated by reference

- (1) If material (other than a standard work of reference) is incorporated by reference in an instrument under section 33B, a copy of the material and any amendment to the material must be—
 - (a) certified as a correct copy of the material by the Director-General; and
 - (b) retained by the Director-General.
- (2) The production in proceedings of a certified copy of the material is, in the absence of evidence to the contrary, sufficient evidence of the incorporation in the instrument of that material.
- (3) The Director-General must—
 - (a) make copies of all material incorporated in an instrument by reference available for inspection, free of charge, at the head office of the Ministry of Health and at other places that the Director-General determines are appropriate; and

- (b) make copies of the material available, free of charge, on an Internet site maintained by or on behalf of the Ministry of Health; and
 - (c) either make copies of the material available for purchase, at reasonable cost, or advise where copies of the material may be obtained.
- (4) The Director-General may comply with subsection (3)(b) by providing a hyper-text link from an Internet site maintained by or on behalf of the Ministry of Health to a copy of the material that is available, free of charge, on an Internet site maintained by or on behalf of someone else.
- (5) The Director-General is not required to comply with subsection (3)(b) or (c) if doing so would infringe copyright in the material or be inconsistent with any other enactment or rule of law.

26 New section 34A inserted (Protection of contact tracing information)

After section 34, insert:

34A Protection of contact tracing information

- (1) Despite anything in the Privacy Act 2020, personal information about an identifiable individual that is provided or obtained for the purpose of contact tracing under this Act (such as through QR scans or paper-based forms) may not be collected, used, or disclosed by anyone except for the purpose of contact tracing under this Act or for the purposes of the Health Act 1956.
- (2) Nothing in this section limits the right of an individual to access or disclose information about them under the Privacy Act 2020 or any other Act.
- (3) A person who intentionally fails to comply with subsection (1) commits an offence.
- (4) A person who commits an offence against subsection (3) is liable on conviction to,—
 - (a) for an individual,—
 - (i) imprisonment for a term not exceeding 6 months; or
 - (ii) a fine not exceeding \$12,000;
 - (b) for any other person, a fine not exceeding \$15,000.

27 Schedule 1 amended

- (1) In Schedule 1, clause 5(3), delete “of MBIE”.
- (2) In Schedule 1,—
 - (a) insert the Part set out in Schedule 1 of this Act as the last Part; and
 - (b) make all necessary consequential amendments.

28 Consequential amendments to secondary legislation

Amend the legislation specified in Schedule 2 as set out in that schedule.

Part 2
Consequential amendment to Summary Proceedings Act 1957

Amendment to Summary Proceedings Act 1957

29 Principal Act

Section 30 amends the Summary Proceedings Act 1957.

30 Section 2 amended (Interpretation)

In section 2(1), definition of **infringement notice**, after paragraph (jg), insert:
(jh) section 30 of the COVID-19 Public Health Response Act 2020; or

Schedule 1
New Part 2 inserted into Schedule 1

s 27

Part 2
**Provisions relating to COVID-19 Public Health Response
Amendment Act 2021**

6 Interpretation

In this Part,—

amendment Act means the COVID-19 Public Health Response Amendment Act 2021

commencement means the date appointed under section 2(1) for the commencement of new section 26(4)

new section 26(4) means section 26(4) as set out in section 13 of the amendment Act.

7 Penalties for infringement offences committed before commencement

A person who commits an infringement offence under this Act before commencement is liable to—

- (a) an infringement fee of \$300; or
- (b) a fine imposed by a court not exceeding \$1,000.

Schedule 2

Amendments to secondary legislation

s 28

Part 1

Amendments to COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Regulations 2020

Regulation 3(1)

In regulation 3(1), replace the definition of **chief executive** with:

chief executive has the same meaning as in section 5(1) of the Act

Regulation 10A

In the heading to regulation 10A, delete “**Relevant**”.

In regulation 10A(2) and (3), delete “relevant”.

Regulation 10B

In the heading to regulation 10B, delete “**Relevant**”.

In regulation 10B(2) and (3), delete “relevant”.

Regulation 12(3)

In regulation 12(3), replace “Ministry of Business, Innovation, and Employment” with “responsible agency”.

Part 2

Amendments to COVID-19 Public Health Response (Air Border) Order (No 2) 2020

Clause 4(1)

In clause 4(1), definition of **confirmed allocation**, replace “clause 15H of the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020” with “section 32J of the Act”.

In clause 4(1), definition of **managed isolation allocation system**, replace “clause 15H of the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020” with “section 32J of the Act”.

Clause 8(3A)

In clause 8(3A), delete “of MBIE”.

Part 3

Amendments to COVID-19 Public Health Response (Isolation and Quarantine) Order 2020

Clause 4(1)

In clause 4(1), definition of **high-risk MIQF**, delete “of MBIE”.

In clause 4(1), definition of **low-risk MIQF**, delete “of MBIE”.

Clause 8

Revoke clause 8(2).

Clause 10

In clause 10(1)(a) and (b), delete “of MBIE”.

Clause 11

In clause 11(4)(a)(ii), (4C), and (4D), delete “of MBIE”.

Clause 12

In clause 12(1)(a) and (3), delete “of MBIE”.

Clause 13

Replace clause 13 with:

13 Leaving place of isolation or quarantine

- (1) A person is permitted to leave their room at their place of isolation or quarantine to visit a fellow resident.
- (2) A person leaving their room at their place of isolation or quarantine under this clause must comply with any directions of, or conditions imposed by, the chief executive.

Clause 14

In clause 14(1)(a), replace “clause 13(b) to (f)” with “section 32P(1)(b) to (f) of the Act”.

In clause 14(2)(a) and (b) and (3), delete “of MBIE”.

Clause 15

In clause 15(1) and (2)(c)(i), delete “of MBIE”.

Clause 15GA

In clause 15GA, revoke the definition of **chief executive**.

Subpart 1 of Part 2

Revoke subpart 1 of Part 2.

Clause 16

In clause 16, delete “of MBIE”.

Part 4

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

Clause 9(5)(a)

In clause 9(5)(a), replace “Ministry of Business, Innovation, and Employment” with “responsible agency”.

Notes

1 *General*

This is a consolidation of the COVID-19 Public Health Response Amendment Act 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 Amendment Act 2021 Commencement Order 2022 (SL 2022/18)
COVID-19 Public Health Response Amendment Act 2021 Commencement Order 2021 (SL 2021/392)