



COVID-19 Public Health Response (Required Testing) Amendment Order (No 3) 2021

This order is made by the Minister for COVID-19 Response under section 11 of the COVID-19 Public Health Response Act 2020 in accordance with section 9 of that Act.

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Order

1 Title

This order is the COVID-19 Public Health Response (Required Testing) Amendment Order (No 3) 2021.

2 Commencement

This order comes into force at 11.59 pm on 11 August 2021.

3 Principal order

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

4 Clause 4 amended (Interpretation)

In clause 4, definition of **health worker**, replace “an affected person who is required to undergo testing and medical examination under clause 7” with “a person for COVID-19”.

5 Cross-heading above clause 7 replaced

Replace the cross-heading above clause 7 with:

Part 1 Testing and medical examination requirements

6 Clause 10 amended (Duty of relevant PCBU to facilitate compliance with testing and medical examination requirements)

After clause 10(a)(i), insert:

- (ia) the option of undergoing recurring saliva testing under clause 13 instead of undergoing testing and medical examination under clause 7; and

7 Clause 11 amended (Duty of relevant PCBU to keep record of testing and medical examination)

(1) In clause 11(1)(b), after “number”, insert “and an email address”.

(2) After clause 11(1)(e), insert:

- (f) the testing option that the affected person has chosen.

(3) Replace clause 11(2) with:

(2) The record must be entered on a register kept, maintained, and monitored by, or on behalf of, the Ministry of Health under clause 12.

(4) After clause 11(3)(b), insert:

- (c) if an exemption under clause 8 applies to the affected person, provide written confirmation of the exemption to the Ministry of Health on request.
- (5) After clause 11(3), insert:
- (4) A relevant PCBU must update the record kept under this clause for each affected person that it employs or engages.

8 Clause 12 and cross-heading replaced

Replace clause 12 and the cross-heading above clause 12 with:

12 Duties regarding COVID-19 testing register

- (1) The Director-General must ensure that—
 - (a) a register that records COVID-19 testing of affected persons under this order is kept, maintained, and monitored; and
 - (b) a system is in place by which non-compliance may be reported to an enforcement officer.
- (2) The Ministry of Health must provide a relevant PCBU with access to the register to enable the relevant PCBU to keep and maintain, for each affected person employed or engaged by the relevant PCBU, the record specified in clause 11(1).

Part 2

Requirements in relation to recurring saliva testing for COVID-19

13 Affected persons may choose recurring saliva testing for COVID-19

- (1) Despite anything in Part 1, an affected person may choose to undergo recurring saliva testing for COVID-19 as an alternative to undergoing testing and medical examination under clause 7.
- (2) If an affected person chooses to undergo recurring saliva testing for COVID-19,—
 - (a) the affected person must, at least twice within a period of 7 days,—
 - (i) produce a sample of their saliva; and
 - (ii) submit the sample to a designated testing place:
 - (b) the interval between the production and submission of one saliva sample and the production and submission of the next saliva sample must be at least 2 days.

Example

If an affected person chooses to undergo recurring saliva testing for COVID-19 and produces and submits their first saliva sample to a designated testing place on

12 August, the second saliva sample must be produced and submitted no earlier than 14 August and no later than 18 August.

- (3) In this clause, **designated testing place** means a place for testing saliva for COVID-19 that the Director-General has approved in a notice published—
- (a) on a publicly accessible Internet site maintained by or on behalf of the New Zealand Government; and
 - (b) in the *Gazette*.

14 Duties of affected persons choosing to comply with clause 13

- (1) An affected person who chooses to undergo recurring saliva testing for COVID-19 under clause 13 must, as part of their duties under clause 11(3), notify their relevant PCBU that they have chosen to comply with the requirements in clause 13 instead of the requirements in clause 7.
- (2) An affected person may choose to discontinue undergoing recurring saliva testing for COVID-19 if they have produced and submitted at least 2 consecutive saliva samples to a designated testing place in accordance with clause 13(2).
- (3) If an affected person chooses to discontinue undergoing recurring saliva testing for COVID-19, the affected person must—
 - (a) comply with the requirements in clause 7; and
 - (b) notify their relevant PCBU as soon as practicable that they have chosen to comply with the requirements specified in clause 7 instead of the requirements specified in clause 13.

Part 3 Infringement offences

15 Infringement offences

A breach of clause 7, 10, 11, 13, or 14 is an infringement offence for the purposes of section 26(3) of the COVID-19 Public Health Response Act 2020.

Dated at Wellington this 9th day of August 2021.

Hon Chris Hipkins,
Minister for COVID-19 Response.

Explanatory note

This note is not part of the order, but is intended to indicate its general effect.

This order, which comes into force at 11.59 pm on 11 August 2021, amends the COVID-19 Public Health Response (Required Testing) Order 2020. The amendments allow affected persons to undergo recurring saliva testing for COVID-19 as an alternative to undergoing testing and medical examination under clause 7. They also specify duties in respect of keeping track of the COVID-19 testing of affected persons.

A failure to comply is an infringement offence under section 26(3) of the COVID-19 Public Health Response Act 2020 (the **Act**) for which a person is liable to an infringement fee of \$300 or a fine not exceeding \$1,000.

This order must be approved by a resolution of the House of Representatives before the expiry of the period described in section 16(2) of the Act. If this does not happen, the order is revoked on the expiry of that period.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 9 August 2021.
This order is administered by the Ministry of Health.