

Version  
as at 15 August 2023



## COVID-19 Public Health Response (Masks) Order 2022

(SL 2022/255)

COVID-19 Public Health Response (Masks) Order 2022: revoked, on 15 August 2023, by clause 3(a) of the COVID-19 Public Health Response (Revocations) Order 2023 (SL 2023/196).

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.

### Contents

	Page
1 Title	1
2 Commencement	2
3 Interpretation	2
4 Transitional, savings, and related provisions	2
5 Person must wear mask at certain health service premises	2
6 Person not required to wear mask in certain circumstances	3
7 Exemption passes	3
8 Form and content of exemption passes	4
9 Misuse of exemption passes	4
10 General exceptions	5
11 Revocation	6
<b>Schedule 1</b>	<b>7</b>
<b>Transitional, savings, and related provisions</b>	

### Order

#### 1 Title

This order is the COVID-19 Public Health Response (Masks) Order 2022.

---

#### 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.**

## 2 Commencement

This order comes into force at 11.59 pm on 12 September 2022.

## 3 Interpretation

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

**health service** means any of the following:

- (a) a health service within the meaning of section 5(1) of the Health Practitioners Competence Assurance Act 2003;
- (b) treatment or social rehabilitation provided under the Accident Compensation Act 2001;
- (c) disability support services within the meaning of section 4 of the Pae Ora (Healthy Futures) Act 2022

**mask** 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

**medium risk infringement offence** means the medium risk class of infringement offence prescribed by regulation 5(1) of the COVID-19 Public Health Response (Infringement Offences) Regulations 2021

**premises** includes—

- (a) commercial premises or private premises (whether indoors or outdoors); and
- (b) premises owned or managed by central or local government (whether indoors or outdoors); and
- (c) a vehicle

(2) *See* regulation 5(2) and (3) of the COVID-19 Public Health Response (Infringement Offences) Regulations 2021 for the penalties for the classes of infringement offences.

## 4 Transitional, savings, and related provisions

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

## 5 Person must wear mask at certain health service premises

(1) A person must wear a mask when they are at the premises of a health service unless—

- (a) the person is a patient or worker of the health service; or
- (b) the person is receiving residential care at the premises; or
- (c) the health service provided at the premises is 1 or more of the following:
  - (i) a psychotherapy or counselling service;

- (ii) a mental health service;
- (iii) an addiction service.

(2) A breach of subclause (1) is a medium risk infringement offence for the purposes of section 26(3) of the COVID-19 Public Health Response Act 2020.

## **6 Person not required to wear mask in certain circumstances**

(1) The requirement in clause 5 does not apply to a person—

- (a) if they—
  - (i) are under the age of 12 years; or
  - (ii) have a physical or mental illness or condition or disability that makes wearing a mask unsuitable; or
- (b) when they are outdoors; or
- (c) when they are taking medicine; or
- (d) when they are eating or drinking; or
- (e) when they are communicating with a person who is deaf or hard of hearing and visibility of the mouth is essential for communication; or
- (f) when they are asked to remove the mask to ascertain their identity; or
- (g) if wearing a mask is not safe in all of the circumstances; or
- (h) in an emergency; or
- (i) when they are exercising or playing sport; or
- (j) when they are at a voting place to vote in an election; or
- (k) when they are performing as an entertainer, provided that they remain, so far as is reasonably practicable, at least 2 metres from the audience; or
- (l) when they are presenting to an audience (for example, a person presiding over, or assisting in leading, a faith-based gathering), provided that they remain, so far as is reasonably practicable, at least 2 metres from any other person; or
- (m) when removal of, or not wearing, the mask is otherwise required or authorised by law; or
- (n) if the person has an exemption pass issued to them under clause 7.

(2) To avoid doubt, a person does not need an exemption pass to rely on subclause (1)(a)(ii).

## **7 Exemption passes**

(1) An exemption pass exempts a person from the requirement in clause 5.

(2) The Director-General must issue an exemption pass to a person who applies for one in accordance with this clause.

- (3) The Director-General may determine the form of the application for an exemption pass.
- (4) A person's application must include—
  - (a) a declaration by the person that they have a physical or mental illness or condition or disability that makes wearing a mask unsuitable; and
  - (b) the following information about the person:
    - (i) their name and address; and
    - (ii) their date of birth; and
    - (iii) their National Health Index number (if known); and
    - (iv) their contact details (for example, their email address).
- (5) However, if a person's representative applies on their behalf,—
  - (a) the representative may make the declaration about the person that is required by subclause (4)(a); and
  - (b) the Director-General may require the representative to provide about themselves the details that are specified in subclause (4)(b).
- (6) The Director-General must not require any person to provide—
  - (a) evidence, grounds, or further information as to the nature of a person's physical or mental illness or condition or disability; or
  - (b) any additional personal information.
- (7) When applying for an exemption pass, a person must not provide or produce any information that they know is false or misleading in any material particular.

## 8 Form and content of exemption passes

- (1) An exemption pass may be issued in any form that the Director-General decides.
- (2) An exemption pass—
  - (a) must show the person's name; and
  - (b) must not show any other personal information.

## 9 Misuse of exemption passes

A person (**person A**) must not—

- (a) produce or pass off an exemption pass as relating to person A when it relates to another person; or
- (b) produce or pass off an exemption pass that is forged, is altered, or has been obtained fraudulently; or
- (c) facilitate the use by another person of an exemption pass relating to person A.

## **10 General exceptions**

Nothing in this order applies—

- (a) to border services (including law enforcement activities related to border services) provided by Immigration New Zealand, the New Zealand Customs Service, Maritime New Zealand, or the Ministry for Primary Industries;
- (b) to residential centres (including care and protection and youth justice residences), family homes, and group homes (including family group homes and community-based remand centres) that are approved or recognised for the time being by the chief executive of Oranga Tamariki—Ministry for Children as a place of care or treatment for the purposes of the Oranga Tamariki Act 1989;
- (c) within a corrections prison as defined in section 3(1) of the Corrections Act 2004 or any premises managed by or on behalf of the Department of Corrections;
- (d) to custodial or detention services managed by the New Zealand Police, the Department of Corrections, or the Ministry of Justice, or within a courthouse;
- (e) to the administration of sentences and orders by the Department of Corrections or on its behalf;
- (f) to people being transported for the purposes of the Department of Corrections and New Zealand Police fulfilling their purposes and performing their functions and duties;
- (g) to the New Zealand Parole Board;
- (h) to the New Zealand Security Intelligence Service;
- (i) to the Government Communications Security Bureau;
- (j) to the New Zealand Defence Force;
- (k) to the New Zealand Police;
- (l) to Fire and Emergency New Zealand;
- (m) to lifesaving, maritime assistance, search, and rescue services (including training, patrolling, and other work needed to ensure preparedness for those services) provided by any of the following:
  - (i) the Royal New Zealand Coastguard Incorporated;
  - (ii) Surf Life Saving New Zealand Incorporated;
  - (iii) New Zealand Land Search and Rescue Incorporated;
  - (iv) Amateur Radio Emergency Communications;
- (n) to civil defence emergency management services provided or coordinated by the National Emergency Management Agency and Civil Defence Emergency Management Groups, except to the extent that the services

are provided at premises used to provide shelter or emergency and temporary housing for people in a civil defence emergency:

- (o) to workers carrying out any business or service referred to in any of paragraphs (a) to (n):
- (p) to Parliament and parliamentary staff in relation to parliamentary business:
- (q) to officers of Parliament in relation to—
  - (i) parliamentary business; or
  - (ii) undertaking their statutory functions:
- (r) to Ministers of the Crown and ministerial staff, in relation to Government business:
- (s) to people who are enforcement officers carrying out their functions and exercising their powers under the COVID-19 Public Health Response Act 2020.

## 11 Revocation

The COVID-19 Public Health Response (Protection Framework) Order 2021 (SL 2021/386) is revoked.

## **Schedule 1**

### **Transitional, savings, and related provisions**

cl 4

#### **Part 1**

##### **Provisions relating to this order as made**

###### **1 Existing exemption passes treated as exemption passes issued under this order**

An exemption pass issued under clause 106A of the COVID-19 Public Health Response (Protection Framework) Order 2021 must be treated as if it were issued under clause 7 of this order.

Dated at Wellington this 12th day of September 2022.

Hon Dr Ayesha Verrall,  
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 comes into force at 11.59 pm on 12 September 2022. It revokes the COVID-19 Public Health Response (Protection Framework) Order 2021 (the **Protection Framework Order**). The effect of this order is to remove all requirements in the Protection Framework Order except the requirement for certain people to wear a mask at certain health service premises. A breach of the requirement to wear a mask continues to be a medium risk infringement offence.

This order preserves most of the Protection Framework Order's exceptions from the requirement to wear a mask. It also continues the ability to apply for an exemption pass.

#### *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*: 12 September 2022.

**Notes****1 General**

This is a consolidation of the COVID-19 Public Health Response (Masks) 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 2023 (SL 2023/196): clause 3(a)