

COVID-19 ADVISORY

COVID-19 Public Health Response (Alert Level Requirements) Order (No 11) 2021 [Order No 11]

Purpose

The purpose of this Advisory is to let you know that COVID-19 Public Health Response (Alert Level Requirements) Order (No 10) 2021 has been updated with Order No 11 [COVID-19 Public Health Response \(Alert Level Requirements\) Order \(No 11\) 2021 \(LI 2021/237\) – New Zealand Legislation](#) and highlight the two key changes.

To reduce risk of misinterpretation, the relevant clauses are repeated in their entirety after the summary of the changes below and we encourage you to read the new Order.

Summary of the changes

- From 11.59 pm on 9 September 2021 operators must:
 - have systems and processes in place so their workers crossing the boundary have evidence of having had a COVID-19 test administered no more than 7 days before the worker's journey began, and
 - allow their workers to report for and undergo testing during their working hours.
- From 11.59 pm on 16 September 2021 people crossing the Alert Level 4 boundary will be required to carry evidence of testing. That evidence shall be either:
 - evidence specified by the Director-General, or
 - written verification provided by the medical practitioner who carried out the examination.

Excerpts from Order No. 11

Timing of the changes

2 Commencement

(1) This order comes into force at 11.59 pm on 7 September 2021.

(2) However,—

(a) clause 19A (which creates obligations for COVID-19 testing of certain persons travelling between the alert level 4 area and the alert level 2 area) comes into force at 11.59 pm on 16 September 2021:

(b) clause 19B (which imposes a duty on businesses and services to facilitate testing and medical examination for workers who cross alert level boundaries) comes into force at 11.59 pm on 9 September 2021:

Change 1: obligation to carry evidence of testing

19 Evidence of permission for travel between alert level areas

(1) A person must carry evidence of the purpose of their travel and the location of their destination if—

- (a) they rely on a permission under any of the following items of Schedule 5:
(i) working for certain businesses or services (items 1, 2, and 3):*

**The remainder of subclause (1)(a) is not reprinted here as it is irrelevant given Schedule 5 via Schedule 2 covers freight services (including those for livestock) as permitted work.*

(2) The evidence required by subclause (1) may (but need not) be or include a document issued by the New Zealand Government for the purposes of this clause.

19A Obligations concerning COVID-19 testing of certain persons travelling into or out of alert level 4 area

(1) A person who relies on a permission to travel into or out of the alert level 4 area under item 1 or 2 of Schedule 5 must also comply with this clause.

(2) The person must carry, as facilitated by their employer in clause 19B,—

- (a) evidence of having had a COVID-19 test administered no more than 7 days before their journey began; or
(b) a certificate that verifies that the person was examined by a medical practitioner no more than 7 days before the journey began and that the person—
(i) was determined to have particular physical or other needs that made it inappropriate for the person to undergo a COVID-19 test; and
(ii) did not exhibit symptoms of COVID-19.

(3) A person must produce evidence of the COVID-19 test or the relevant certificate when requested by an enforcement officer.

(4) In this clause and clause 19B,—
certificate means—

(a) written verification provided by the medical practitioner who carried out the examination; or

(b) any other appropriate evidence that the Director-General has specified

COVID-19 test means any applicable examination or test (or both) for COVID-19 that the Director-General has specified

Director-General has specified, in relation to a certificate or COVID-19 test, means specified by the Director-General 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.

Change 2: obligation of employers to enable testing

19B Duty of businesses and services to facilitate testing and medical examination for workers who cross alert level boundaries

(1) A relevant business or service must—

(a) have systems and processes in place, so far as is reasonably practicable, to ensure that their workers are not required to travel into, out of, or through the alert level 4 area unless the worker has evidence of having had a COVID-19 test administered no more than 7 days before the worker's journey began; and

(b) not prevent their workers from reporting for and undergoing testing, medical examination, or both during their working hours, if testing and medical examination are available during those hours.

(2) In this clause, relevant business or service means a business or service listed in Schedule 2 or any other business or service whose workers may need to travel into, out of, or through the alert level 4 area in order to undertake work under clause 25(2). 2021/237 COVID-19 Public Health Response (Alert Level Requirements) Order (No 11) 2021 Part 2 cl 19B.

Comments

We are aware that the above is a bit vague on what kind of evidence of testing is required and will come back to you when we know more about that.

We are also awaiting advice from the Government around saliva testing.

We are aware that testing workers during their working hours may be a problem for people who work nights and early mornings. You will need to allow for this in your systems and processes to ensure that your workers have had a COVID-19 test.

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