



COVID-19 (Public Health Measures) Regulations 2021

Sir Tom J. Marsters, KBE


Queen's Representative

Order in Executive Council

At Avarua, Rarotonga this 23rd day of December 2021

Present:

His Excellency the Queen's Representative in Executive Council

Pursuant to sections 35 and 36 of the COVID-19 Act 2020, after the approval of the Secretary of Health, His Excellency the Queen's Representative, acting on the advice and with the consent of the Executive Council, makes the following regulations—

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Schedule **Meaning of high-risk premises**

Regulations

- 1 Title**

These regulations are the COVID-19 (Public Health Measures) Regulations 2022.
- 2 Commencement**
 - (1) Regulation 21 comes into force on 1 January 2022.
 - (2) The rest of these regulations come into force on 13 January 2022.
- 3 Application of regulations**
 - (1) Part 3 applies in relation to any travel to the Pa Enea.
 - (2) The rest of these regulations apply in Rarotonga and Aitutaki.

Part 1 **Definitions**

- 4 Interpretation**
 - (1) In these regulations, unless the context otherwise requires,—
Act means the COVID-19 Act 2020

air carrier, in relation to an aircraft,—

- (a) means the owner or charterer of the aircraft; and
- (b) if the owner or charterer is not in the Cook Islands, includes the agent in the Cook Islands for the owner or charterer; and
- (c) if there is no agent in the Cook Islands, includes the person in charge of the aircraft

airside means any part of an airport that is inaccessible to the general public but that is accessible to international arriving passengers

business or service includes a business or service that—

- (a) is a voluntary or not-for-profit service; and
- (b) is a private sector business or service; and
- (c) is a public sector business or service; and
- (d) provides space for other businesses or services to operate within (for example, a marketplace); and
- (e) provides facilities or venues for events or activities if people pay to attend an event or participate in an activity or pay to hire a facility or venue; and
- (f) provides facilities for the playing of sports

close-proximity business or service has the meaning given in regulation 5

contact record means a record of a person entering premises or attending a gathering or event that contains—

- (a) the name of the person; and
- (b) the date on which and time at which the person entered the premises or attended the gathering or event; and
- (c) a telephone number that may be used to easily contact that person

Cooksafe tag-in station means a device or other means for people to electronically scan unique identifying codes issued to them by the Cook Islands Government for the purpose of enabling contact tracing

customers and clients—

- (a) includes any non-paying customer or client; but
- (b) in relation to an early education provider or school, excludes children attending the early education provider or school
- (c)

education facility means—

- (a) a primary or secondary school;
- (b) a tertiary institution;
- (c) a vocational training provider

event has the meaning given in regulation 6

evidence of vaccination, for a person, means—

- (a) a vaccine card or electronic pass issued by the Ministry for the person under regulation 10, and that has not expired; or
- (b) a vaccine certificate issued by the Ministry for the person specifying that the person has been vaccinated, and that has not expired; or
- (c) a My Vaccine Pass issued by the New Zealand Government for the person, and that has not expired

face covering means a covering of any type that covers the nose and mouth of a person

face covering rule has the meaning given in regulation 7

food or drink business or service means a business or service where food or drink is offered to customers and clients for consumption on the premises of the business or service, for example,—

- (a) a cafe, restaurant, bar (including a bar inside a hotel), or club;
- (b) a food truck or takeaway shop with a seating area in the immediate vicinity of the truck or shop;
- (c) a market

gathering has the meaning given in regulation 8

health professional means—

- (a) the Director of Public Health appointed by the Ministry;
- (b) a public health specialist appointed by the Ministry;
- (c) a medical practitioner;
- (d) a public health coordinator appointed by the Ministry;
- (e) a public health protection officer appointed by the Ministry;
- (f) a public health nurse;
- (g) a health officer

health service—

- (a) means a service provided for the purpose of assessing, improving, protecting, or managing the physical or mental health of persons or groups of persons; and
- (b) includes a pharmacy

high-risk premises has the meaning given in the Schedule

medical exemption means—

- (a) a medical exemption granted by the Secretary under regulation 11; or
- (b) a COVID-19 vaccination exemption granted by the New Zealand Director-General of Health

medical practitioner means a medical practitioner registered and entitled to practise in the Cook Islands

Ministry means the Ministry of Health

person in control, in relation to premises, a business, or a service,—

- (a) means—
 - (i) the owner of the premises, business, or service; or
 - (ii) the operator or manager responsible for the premises, business, or service at the applicable time; but
- (b) does not include a person who drives or operates a vehicle used as part of a public transport service unless the driver or operator is also the owner of the vehicle

public transport service—

- (a) means a service for the carriage of passengers for hire or reward that is available to the public, including—

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- (i) a public bus; and
 - (ii) a school bus; and
 - (iii) an airport and tourist transfer service; and
 - (iv) a taxi; and
- (b) includes a service described in paragraph (a) provided by means of a small passenger vehicle

rapid antigen test means a test for antigens specific to SARS-CoV-2, that produces a result in less than 1 hour, of a type specified by the Secretary in writing and listed on a publicly accessible website maintained by or on behalf of the Ministry

regulated business or service has the meaning given in regulation 15

RT-PCR test means a test for severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) viral ribonucleic acid using reverse transcription polymerase chain reaction (RT-PCR)

Secretary means the Secretary of Health

specified frontline worker has the meaning given in regulation 9

supervised rapid antigen test means a rapid antigen test administered by—

- (a) a health professional; or
- (b) a COVID-19 health and safety officer who is certified by the Ministry as competent to administer rapid antigen tests

vaccinated and **unvaccinated** have the meanings given to those terms in the COVID-19 (Air Border Entry Requirements) Regulations 2021

worker, in relation to a business or service, means any person who carries out work in any capacity for that business or service (whether paid or unpaid)

workplace—

- (a) means premises where work is being carried out, or is customarily carried out, for a business or service; and
 - (b) includes premises where a worker goes, or is likely to be, while at work.
- (2) Any term or expression that is defined in the Act and used, but not defined, in these regulations has the same meaning as in the Act.

5 Meaning of close-proximity business or service

- (1) In these regulations, a **close-proximity business or service** means a business or service to the extent that it carries on activities that it cannot undertake without—
- (a) physical contact, or close proximity, between people; or
 - (b) a worker being closer than 1 metre to the client.
- (2) Examples of close-proximity businesses and services are hairdressing services, beauty therapists, and tattoo parlours.

6 Meaning of event

In these regulations, **event**—

- (a) means an activity organised by a business or service—
 - (i) that is held at—

- (A) commercial premises or private premises (whether indoors or outdoors); or
 - (B) publicly-owned premises hired for the purpose of the activity; or
 - (C) an outdoor area where a group of customers and clients is accompanied or supervised by a worker providing services to that group (for example, a guided tour); and
- (ii) for which entry is controlled (whether through ticketing, fees, registration, or any other means); and
- (b) also means normal operations at cinemas, theatres, stadiums, concert venues, conference venues, and private galleries; but
 - (c) excludes any activity at a private dwelling house.

7 Meaning of face covering rule

- (1) In these regulations, the **face covering rule** requires that a person must wear a face covering, except—
 - (a) if the person—
 - (i) is under the age of 6 years; or
 - (ii) has a physical or mental illness or condition or disability that makes wearing a face covering unsuitable; or
 - (b) when taking medicine; or
 - (c) when eating or drinking; or
 - (d) 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
 - (e) when communicating with a person who is deaf or hard of hearing and visibility of the mouth is essential for communication; or
 - (f) when asked to remove the face covering to ascertain the person's identity; or
 - (g) if wearing a face covering is not safe in all of the circumstances; or
 - (h) when in an emergency; or
 - (i) when removal of, or not wearing, the face covering is otherwise required or authorised by law.

8 Meaning of gathering

- (1) In these regulations, **gathering**—
 - (a) means people who are intermingling in a group but excludes people who remain at least 2 metres away from each other, so far as is reasonably practicable; and
 - (b) includes (but is not limited to)—
 - (i) a gathering to undertake voluntary or not-for-profit sporting, recreational, social, or cultural activities;
 - (ii) a gathering to undertake community club activities;
 - (iii) a faith-based gathering;
 - (iv) a funeral;

- (v) a gathering held in a defined space or premises of a workplace (other than a vehicle in use as part of a public transport service) that have been hired for the exclusive use of the gathering by a person (other than the person who manages or controls the defined space or premises); but
- (c) excludes a gathering for the purpose of a business or service—
 - (i) at an office workplace; or
 - (ii) as part of its ordinary retail operations; or
 - (iii) at a hearing of a court or tribunal; or
 - (iv) as part of its ordinary operations at an education entity.
- (2) In this regulation, **defined space**—
 - (a) means any single indoor space or outdoor space; and
 - (b) if there is more than 1 space in any premises, means a space described in paragraph (a) for which there are systems and processes in operation that ensure, so far as is reasonably practicable, that persons using the space (other than workers) do not intermingle at a distance closer than 2 metres with other persons using, entering, or leaving the premises.
- (3) For the purposes of subclause (2),—
 - (a) an indoor space is a **single space** if—
 - (i) there are walls (whether permanent or temporary) that substantially divide that space from other spaces; and
 - (ii) the space does not share direct airflow with another indoor space:
 - (b) an outdoor space is a **single space** if—
 - (i) there are walls (whether permanent or temporary) that substantially divide that space from other spaces; or
 - (ii) all people in that space are separated by at least 2 metres from other people who are outside that space.

9 Meaning of specified frontline worker

In these regulations, **specified frontline worker** means—

- (a) a person who works at the Cook Islands border (either the maritime border or the air border), including, but not limited to,—
 - (i) aircrew and the crew of vessels:
 - (ii) baggage handlers, airside workers, and port workers:
 - (iii) customs and immigration officials and other workers who interact with international arriving passengers:
 - (iv) workers who transport persons to a managed quarantine or isolation facility:
- (b) a person who facilitates, supervises, or works in a managed quarantine or isolation facility:
- (c) a worker who carries out work at an education facility (including as a volunteer or unpaid worker) and who—
 - (i) may have contact with children or students in the course of carrying out that work; or

- (ii) will be present at the education facility at a time when children or students are also present:
- (d) a person who works at an early childcare service or provides a home-based education and care service:
- (e) a person who provides health services to patients in person.

Part 2

Public health measures in Rarotonga and Aitutaki

Vaccination

10 Vaccination card

- (1) The Ministry must issue vaccination cards to persons who have been vaccinated and apply for a vaccination card.
- (2) A vaccination card is evidence of vaccination and must be in a form approved by the Secretary.

11 Medical exemption

- (1) A medical practitioner may apply to the Secretary for a medical exemption on behalf of a person who is unvaccinated.
- (2) An application for, and any grant of, an exemption must comply with regulations 13 to 15 of the COVID-19 (Air Border Entry Requirements) Regulations 2021.

High-risk premises

12 Person in control of high-risk premises must comply with regulation 13 or 14

A person in control of high-risk premises must—

- (a) comply with regulation 13 or 14; and
- (b) display a notice in 1 or more prominent places near the entries to the premises specifying whether evidence of vaccination is required for entry.

13 Evidence of vaccination must be required (subject to exceptions)

- (1) A person in control of a high-risk premises must not allow a person (**person A**) to enter the premises unless person A—
 - (a) can provide evidence of vaccination; or
 - (b) can provide evidence that they have a medical exemption; or
 - (c) is reasonably considered to be under the age of 12 years and 3 months old.
- (2) A person in control of the premises must also have in place systems and processes to ensure that a person's evidence of vaccination is sighted or scanned before the person is allowed to enter the premises.
- (3) This regulation is subject to regulation 14.

14 Evidence of vaccination not required in limited circumstances

- (1) A person in control of high-risk premises may comply with this regulation instead of regulation 13.

- (2) The person in control of the premises may allow a person to enter the premises regardless of whether they are vaccinated, if the following requirements are complied with at all times:
 - (a) the number of people at the premises at any 1 time does not exceed 100 people, excluding staff:
 - (b) the face covering rule is applied to all persons on the premises, subject to subclauses (3) and (4):
 - (c) the person in control of the premises has systems and processes to ensure each person at the premises maintains 1-metre physical distancing from other persons at the premises.
- (3) Where food or drink is served, customers and clients may remove their face coverings while they are seated at their assigned table.
- (4) Face coverings are not required to be worn by the following workers (providing they are keeping a distance of 1 metre from other persons at the business or service, so far as is reasonably practicable):
 - (a) an entertainer performing at those premises:
 - (b) a person presenting to an audience at those premises, for example,—
 - (i) a person presiding over, or assisting in leading, a faith-based gathering:
 - (ii) a person presenting at a university lecture.

Contact record requirements for regulated businesses and services and certain gatherings and events

15 Regulated businesses and services must provide for contact records

- (1) A person in control of a regulated business or service must—
 - (a) ensure that a Cooksafe tag-in station or a manual method for collecting contact records is in 1 or more prominent places within the premises of the regulated business or service; and
 - (b) have systems and processes in place to ensure, so far as is reasonably practicable, that every person aged 16 years and over who enters the premises scans in at the Cooksafe tag-in station or enters their details into a contact record.
- (2) In this regulation, **regulated business or service** means —
 - (a) a supermarket, dairy, or grocery store:
 - (b) a retail business:
 - (c) a health service:
 - (d) a museum, public library, or gallery:
 - (e) a cinema:
 - (f) a church:
 - (g) a gym:
 - (h) a food or drink business or service:
 - (i) a close-proximity business or service:
 - (j) an accommodation provider that is able to provide accommodation in 5 separate rooms or units at the same premises.

- 16 Person responsible for gathering or event must provide for contact records**
- (1) Subclause (2) applies to a gathering or event that would reasonably be expected to have attendance of 100 persons or more, whether it—
- (a) is a public or private event;
 - (b) takes place indoors or outdoors.
- (2) A person responsible for a gathering or event must—
- (a) ensure that a Cooksafe tag-in station or a manual method for collecting contact records is in 1 or more prominent places at the gathering or event; and
 - (b) have systems and processes in place to ensure, so far as is reasonably practicable, that every person aged 16 years and over who enters the gathering or event (including persons working at the gathering or event) scans at the Cooksafe tag-in station or enters their details into a contact record.
- 17 Manual contact tracing records**
- All manual contact records collected under regulation 15 or 16 must be—
- (a) made available to the Ministry on request; and
 - (b) kept for a period of 30 days and then disposed of after the end of that period.
- 18 Person must not provide false or misleading information or a document that does not belong to them**
- (1) A person must not—
- (a) provide false or misleading contact tracing information required for a contact record under these regulations; or
 - (b) provide as evidence of vaccination a vaccine pass or certificate issued to another person; or
 - (c) provide as evidence of a medical exemption a medical exemption granted to another person; or
 - (d) provide any document required under these regulations that has not been issued in accordance with these regulations or has been changed or tampered with in any way.

Face coverings required on public transport and by workers in close-proximity businesses

- 19 Person must comply with face covering rule in specified premises or circumstances**
- A person must comply with the face covering rule if the person—
- (a) is on a public transport service;
 - (b) is a worker (including as a volunteer or unpaid worker) at premises of a close-proximity business or service.

Other public health measures

20 Surveillance testing

- (1) Specified frontline workers may be required to submit to surveillance testing for COVID-19.
- (2) A specified frontline worker who refuses or fails to submit to surveillance testing without good reason must not continue working in that role until the worker provides a negative result from an RT-PCR test.
- (3) The worker's employer may redeploy a worker who refuses or fails to submit to surveillance testing to another position and may terminate the worker's employment in accordance with the Employment Relations Act 2012 if another role is not available or is not agreed to by the worker.
- (4) In this regulation, **surveillance testing** means regular testing for COVID-19, either by an RT-PCR test or a rapid antigen test, in accordance with directions in writing by the Secretary.

21 COVID-19 health and safety officer

- (1) A business or service (including a Government department or agency) with 2 or more employees must appoint a COVID-19 health and safety officer.
- (2) The business or service must provide the name and contact details of the COVID-19 health and safety officer to the Ministry.
- (3) The Ministry may—
 - (a) liaise with the health and safety officer about matters relating to the application of these regulations to the business or service; and
 - (b) require the health and safety officer to be released from duties at work (without deduction to their pay) to undergo training relating to managing and preventing the spread of COVID-19, including training in how to administer supervised rapid antigen tests.

Enforcement

22 Enforcement

A constable or health officer may take any action (including entry into premises) to ensure that these regulations are being complied with.

**Part 3
Travel to Pa Enea**

Restrictions on travel to Pa Enea

23 Travel to Pa Enea: Aitutaki

A person must not travel to Aitutaki unless, before departure for Aitutaki, the person—

- (a) provides a negative result from a supervised rapid antigen test administered on the day of departure, unless the person is transiting to Aitutaki direct from New Zealand; and
- (b) is vaccinated or has a Pa Enea travel exemption.

24 Travel to Pa Enuā (except Aitutaki)

A person must not travel to the Pa Enuā, except Aitutaki, unless, before departure for the Pa Enuā, the person—

- (a) provides a negative result from a supervised rapid antigen test administered on the day of departure; and
- (b) is vaccinated or has a Pa Enuā travel exemption; and
- (c) has resided in Rarotonga for a continuous period of 7 days before the day of departure.

Pa Enuā travel exemption

25 Pa Enuā travel exemption

- (1) A person who is not vaccinated may apply to the Secretary for a Pa Enuā travel exemption.
- (2) An application may only be made on the ground in regulation 26.
- (3) An application must be in a form approved by the Secretary.
- (4) The applicant must—
 - (a) certify that the information they have provided for the purposes of making the application is accurate; and
 - (b) sign the application.
- (5) The application must be accompanied by—
 - (a) evidence of the applicant's residence in the Cook Islands (for example, a letter from the applicant's Island Council or employer confirming the applicant's residence); and
 - (b) evidence that the applicant has not left the Cook Islands since 13 January 2022 (for example, an immigration record).
- (6) On receiving an application, the Secretary may ask the applicant to provide any evidence or further information that the Secretary reasonably requires for the purposes of deciding whether to grant the application.

26 Ground for grant of Pa Enuā travel exemption

The ground for the grant of a Pa Enuā travel exemption is that the applicant—

- (a) was resident in the Cook Islands on 13 January 2022; and
- (b) has not travelled outside the Cook Islands during the period from 13 January 2022 until the date of application; and
- (c) does not intend to travel outside the Cook Islands before travelling to the Pa Enuā under the Pa Enuā travel exemption.

27 Grant of Pa Enuā travel exemption

- (1) The Secretary may grant a Pa Enuā travel exemption if the Secretary is satisfied, on the basis of the evidence or other information provided, that the person on whose behalf an application is made meets the requirements of the ground in regulation 26.
- (2) A Pa Enuā travel exemption is valid for the period that the Secretary determines.

Obligations of domestic air carriers

28 Obligations of domestic air carriers

A domestic air carrier must not allow a person to travel to the Pa Enuā if they do not meet the requirements in regulation 23 and 24, as applicable.

Schedule Meaning of high-risk premises

1. High-risk premises defined

In these regulations, **high-risk premises**—

- (a) means—
 - (i) premises where a close-proximity business or service is undertaken:
 - (ii) a bar or nightclub:
 - (iii) an enclosed cafe or restaurant and, if part of a cafe or restaurant is enclosed, the enclosed part:
 - (iv) a gym:
 - (v) a cinema:
 - (vi) a gallery:
 - (vii) a church:
 - (viii) a school hall if 100 or more children are expected to be inside the hall at the applicable time:
 - (ix) a bank:
 - (x) enclosed retail premises and, if part of retail premises is enclosed, the enclosed part:
 - (xi) an enclosed office space open to the public:
 - (xii) any other premises specified as high-risk premises by the Secretary under clause 2; but
- (b) does not include—
 - (i) a supermarket; or
 - (ii) a dairy or grocery store; or
 - (iii) a pharmacy; or
 - (iv) a school or other educational institution; or
 - (v) a petrol station; or
 - (vi) a court or tribunal.

2. Secretary may specify other high-risk premises

The Secretary may, in writing, specify premises as high-risk premises but the specification has no effect until it is publicly notified in at least 2 of the following ways:

- (a) a notification in a newspaper:
- (b) an announcement on a publicly available television channel:
- (c) an announcement broadcast on a radio station:
- (d) a notification on a social media platform:
- (e) any other means that is likely to reach the majority of the population either directly or indirectly.


Clerk of the Executive Council

These regulations are administered by the Ministry of Health.
These regulations were made on the 23 day of December 2021.