



Ministry of Health (COVID-19) Regulations 2022

Sir Hugh Williams

Deputy Queen's
Representative

Order in Executive Council

At Avarua, Rarotonga this 29th day of July 2022

Present:

His Excellency the Deputy Queen's Representative in Executive Council

Pursuant to sections 15 and 39 of the Ministry of Health Act 2013, His Excellency the Deputy Queen's Representative, acting on the advice and with the consent of the Executive Council, makes the following regulations—

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Regulations

- 1 Title**

These regulations are the Ministry of Health (COVID-19) Regulations 2022.
- 2 Commencement**

These regulations come into force on 1 August 2022.
- 3 Term**

These regulations cease to have effect at the close of 31 October 2022 unless earlier revoked or extended by Order in Executive Council.
- 4 Purpose**

The purpose of these regulations is to implement measures to prevent, limit, or mitigate the spread of COVID-19 and its effects and to enable the Ministry to carry out functions, including regulating matters, relating to COVID-19, that—

 - (a) adversely affect or may adversely affect health; or
 - (b) may cause or contribute to the spread of disease or infection.
- 5 Interpretation**

In these regulations, unless the context otherwise requires,—

Act means the Ministry of Health Act 2013

business or service includes a business or service that—

 - (a) is a voluntary or not-for-profit service;
 - (b) is a private sector business or service;
 - (c) is a public sector business or service;

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- (d) provides space for other businesses or services to operate within (for example, a market place):
- (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:
- (f) provides facilities for playing sports

category quarantine order means a quarantine order made under regulation 12

child means a person under the age of 18

COVID-19 means coronavirus disease 2019 (COVID-19)

Government agency means any ministry, department, agency, or instrument of the Government; and includes a body corporate or an organization that is wholly owned or controlled by the Crown

face covering means a covering of any type that—

- (g) covers the nose and mouth of a person; and
- (h) is secured to the person's head by ear loops or a head loop

health officer means any person designated by the Secretary of Health to perform this function

isolation order means an order made under regulation 13

Minister means the Minister of Health or, in the event of unavailability (due to illness), the acting Minister of Health

premises include any school, workplace, business, entertainment or recreation facility, sporting facility, church, tourist accommodation, private accommodation, or any other place where people gather

publicly notified means notified to the public by means and through media that will most likely enable the majority of people to be notified, either directly or indirectly

quarantine order means a quarantine order made under regulation 11

responsible adult means, in relation to a child, a person with parental responsibility (within the meaning of the Family Protection and Support Act 2017) or a person who has custody or charge of the child for the time being

Secretary of Health includes any Acting Secretary or person or persons delegated by the Secretary of Health to perform any such power or powers otherwise given to the Secretary under this Act

surveillance testing means regular testing for COVID-19 by a test approved by the Secretary for Health.

6 Conflict with other regulations

If a provision of these regulations conflicts with a provision of any other regulations, the provision in these regulations prevails.

Directions by Secretary of Health

7 Directions by Secretary of Health

(1) The Secretary of Health may issue directions, for the purpose of these regulations, to do any of the following:

- (a) impose conditions on any premises (or type of premises) concerning their use:

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- (b) specify premises to be used as a quarantine or isolation facility, operations centre, or for another function under these regulations:
 - (c) specify property (not premises) to be seized or used by officials:
 - (d) prohibit, restrict, or impose conditions, on any form of transportation (including public transport):
 - (e) require any specified premises or type of premises to be closed for a fixed period:
 - (f) prohibit or impose conditions on any specified gathering or type of gathering:
 - (g) prohibit, restrict, or impose conditions on any travel of persons, aircraft, or vessels within the Cook Islands:
 - (h) restrict or limit the purchase of goods or services:
 - (i) prohibit or restrict any specified activity:
 - (j) require persons to stay physically distant from any persons in any specified way:
 - (k) require persons or a category of persons to take any specified action or refrain from taking any specified action, or to comply with any specified measures, for example (without limitation), to wear a face covering in specified circumstances or to undergo surveillance testing.
- (2) The Secretary must not issue a direction,—
- (a) under subclause (1)(a), (d), (e), (f), (g), (h), (i), (j), or (k), unless they are satisfied that the direction is reasonably required to achieve the purpose of these regulations:
 - (b) under subclause (1)(b) or (c), unless they are satisfied that the direction is necessary to achieve the purpose of these regulations.
- (3) A direction must—
- (a) be in writing:
 - (b) state the date on which it is made:
 - (c) state the date on which it comes into effect (subject to subclause (4)):
 - (d) state the date on which it expires:
 - (e) be published on the COVID-19 Cook Islands Response government website.
- (4) A direction has no effect until it has been publically notified in 2 or more of the following mediums:
- (a) newspaper:
 - (b) announcement on a television channel publically available:
 - (c) announcement broadcast on a radio station:
 - (d) social media platform:
 - (e) any other mechanism that is likely to reach the majority of the population either directly or indirectly.
- (5) However, a direction that relates to the Pa Enea must, in addition to being notified under subclause (4), be notified to the relevant Island Council.
- (6) While a direction is in effect, the Secretary must review it at least once every 6 weeks.

- (7) A direction may be issued more than once and the Secretary may revoke a direction at any time before it expires.

Urgent directions by Secretary of Health or Commissioner of Police

8 Commissioner of Police or Secretary of Health may give direction in urgent situation

- (1) If the Commissioner of Police or the Secretary of Health considers that there is insufficient time to make a direction under regulation 7, they may give a verbal or written direction, including to a particular person, in respect of anything that may be the subject of a direction under regulation 7.
- (2) However, the Commissioner of Police or the Secretary of Health must not give a direction unless satisfied that the direction is reasonably required to achieve the purpose of these regulations.
- (3) A direction has effect for a period of 72 hours only. After that period, a direction under regulation 7 is required to continue the matter to which a direction under this regulation relates.
- (4) The person who gives a verbal direction must, when it is practicable to do so, publically notify the direction in accordance with regulation 7(4) (although the direction has effect from the time it is given) or, if the direction applies to a particular person, give that person a written copy of the direction which must include the reasons for the direction.

Compensation for use of premises or seizure or use of property under regulation 7(1)(b) and (c)

9 Compensation for use of premises or seizure or use of property

- (1) The owner of, or any person who has an interest in, a premises that is being used as a quarantine or isolation facility, operations centre, or for another function under a direction made under regulation 7(1)(b), or property seized or being used under a direction made under regulation 7(1)(c), must be compensated for the use of those premises or the seizure or use of the property at a rate set by the Financial Secretary.
- (2) The rate set by the Financial Secretary under subclause (1) in relation to premises being used under a direction made under regulation 7(1)(b) must be a rate that is adequate having regard to—
- (a) the type of premises;
 - (b) the ordinary use of that premises; and
 - (c) the loss of income or financial cost that the owner will otherwise suffer as a result of the order; and
 - (d) any other relevant matters.
- (3) The rate set by the Financial Secretary under subclause (1) in relation to property seized or being used under a direction made under regulation 7(1)(c) must be a rate that is reasonable having regard to—
- (a) the type of property used or seized; and
 - (b) any damage or depreciation that may occur to the property as a result of its seizure or use; and
 - (c) any inconvenience otherwise caused to the owner; and

- (d) any other relevant matters.
- (4) Any person who is dissatisfied with the rate of compensation set by the Financial Secretary may apply to a Judge of the High Court for a determination of the appropriate compensation.
- (5) Any party who is dissatisfied with any order of the High Court may appeal that decision to the Court of Appeal as if it were a civil proceeding.

Enforcement

10 Enforcement of directions by Secretary or Commissioner of Police

- (1) The Secretary may appoint a person or persons to monitor compliance with a direction made under regulation 7 or 8.
- (2) Every person appointed under subclause (1) must notify the Secretary of Health and the Commissioner of Police of any non-compliance with a direction under regulation 7 or 8.
- (3) See regulation 22 which makes it an offence not to comply with a direction given under regulation 7 or 8.

Quarantine and isolation

11 Quarantine powers: individual

- (1) If a health officer has reason to suspect that an individual may be a carrier or at risk of carrying and transmitting COVID-19, the health officer may order that person to go into quarantine.
- (2) At the time of ordering a person into quarantine, the health officer must give the person the reasons for the quarantine order and the conditions of the quarantine order.
- (3) The conditions of a quarantine order include (but are not limited to)—
 - (a) the place where the person must undertake quarantine:
 - (b) the duration of the quarantine:
 - (c) what a person can and cannot do under quarantine:
 - (d) whether or not the quarantine is to be under supervision.
- (4) The conditions of a quarantine order—
 - (a) must be given to the affected person in writing within 24 hours of the quarantine starting; and
 - (b) may be varied at any time by a health officer by giving notice in writing to the affected person.
- (5) As soon as practicable after making a quarantine order, a health officer must report (in writing) to the Secretary of Health.
- (6) The Secretary of Health must give written approval if a quarantine order is to exceed 14 days.
- (7) The Secretary of Health may revoke a quarantine order at any time.

12 Quarantine powers: general

- (1) If the Secretary of Health has reason to believe that any category of persons poses an undue risk in respect of the carriage and transmission or possible

carriage and transmission of COVID-19, the Secretary of Health may order that category of persons into quarantine.

- (2) A category quarantine order may be subject to any conditions that the Secretary of Health considers appropriate including (but not limited to)—
 - (a) the type of premises where quarantine is to be carried out;
 - (b) the duration of the quarantine;
 - (c) what a person can and cannot do under quarantine;
 - (d) whether or not the quarantine is to be under supervision.
- (3) A category quarantine order and any conditions of that order does not have effect until the Secretary of Health notifies it through a medium that is likely to be received by the category of persons affected.
- (4) If the duration of a category quarantine order exceeds 14 days, the Secretary of Health must make public the reasons for that decision.

13 Isolation

- (1) A health officer may order any person whom the officer has reasonable grounds to believe has COVID-19 to isolate in a manner specified by the Secretary of Health.
- (2) A health officer must give a written report of any isolation order to the Secretary of Health as soon as possible after the isolation order is made.
- (3) The Secretary of Health is required to release a person from isolation as soon as the Secretary of Health is satisfied that the person isolated poses no risk of transmitting COVID-19 to any other person.
- (4) A person who is subject to an isolation order must be under supervision.

14 General obligation on Secretary of Health in respect of persons subject to quarantine and isolation

If a person is subject to a quarantine order, category quarantine order, or isolation order, the Secretary of Health must have due regard to the person's wellbeing and, to the extent possible, provide support to the person if needed.

15 Detention

- (1) A category quarantine order, a quarantine order, and an isolation order are each deemed to be a detention for the purpose of the writ of habeas corpus under Article 65(1)(c) of the Constitution.
- (2) Nothing in subclause (1) limits the Court's ability to view any other order given under these regulations as detention.

Medical testing

16 Medical testing

- (1) A health officer may order that any person be tested for COVID-19.
- (2) A person who is tested for COVID-19 may be ordered to go into quarantine under regulation 11 or into isolation under regulation 13 until such time as the test results are known.
- (3) Any person who fails to comply with an order under subclause (1) must go into quarantine under section 11 or into isolation under section 13 and those sections apply to the extent applicable.

Information

17 Information sharing

- (1) This regulation authorises the sharing of information between any Government Agency, or between any Government Agency and any individuals or other countries, as is necessary to manage and mitigate the spread of COVID-19.
- (2) A Government Agency that uses information shared under subclause (1) for a purpose not related to the management or mitigation of COVID-19 commits an offence and is liable on conviction to a fine not exceeding \$10,000.
- (3) A person who uses information shared under subclause (1) for a purpose not related to the management or mitigation of COVID-19 commits an offence and is liable on conviction to a term of imprisonment not exceeding 3 months or to a fine not exceeding \$1,000.

18 Obligation on persons regarding health questions

- (1) A person must provide full and accurate information in response to any question or request for information relating to COVID-19 made in an official document (whether online or in hard copy) or in person by a health officer or other authorised official.
- (2) However, it is defence to a charge under subclause (2) if the person was not warned of their obligation under subclause (1).
- (3) On conviction for an offence against subclause (2), a person is liable to a term of imprisonment not exceeding 12 months or to a fine not exceeding \$10,000.

Harmful information about COVID-19

19 Prohibition on publishing, disseminating, or communicating harmful information in relation to COVID-19

- (1) No person may intentionally publish, disseminate or otherwise communicate harmful information in relation to COVID-19.
- (2) A person who contravenes subclause (1) commits an offence, and is liable on conviction—
 - (a) in the case of an individual, to a term of imprisonment not exceeding 12 months or to a fine not exceeding \$10,000; and
 - (b) in the case of a non-individual, to a fine not exceeding \$200,000.
- (3) In this regulation, **harmful information** means information that—
 - (a) the person knows or reasonably ought to have known, to be false information about COVID-19; or
 - (b) is intended to promote racial disharmony or racial harassment; or
 - (c) is intended to promote civil disorder or civil unrest.
- (4) No prosecution may be brought under this section unless the Attorney-General gives consent.

Obligations in respect of children

20 Obligations in respect of children

- (1) A person who is a responsible adult for a child must ensure that the child complies with any orders or directions given under these regulations in so far as the responsible adult is reasonably able to do so.
- (2) A responsible adult who, without reasonable excuse, fails to comply with their obligation under subclause (1)—
 - (a) commits an offence; and
 - (b) is liable on conviction to a term of imprisonment not exceeding 12 months or to a fine not exceeding \$10,000.

COVID-19 health and safety officer

21 COVID-19 health and safety officers

- (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 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 work duties (without deduction to their pay) to undergo training relating to managing and preventing the spread of COVID-19, including training to supervise tests for COVID-19 approved by the Secretary for Health.

Offences and immunity

22 Offences

- (1) A person to whom a direction or order made under these regulations applies must comply with it and with any condition imposed on the direction or order and commits an offence if they, without reasonable excuse, do not comply with this subclause.
- (2) A person commits an offence if they, without reasonable excuse, fail to comply with a direction issued under regulation 7 or 8 or an order given under regulation 11, 12, 13, or 16.
- (3) A person commits an offence if they obstruct or hinder, without reasonable excuse, any person carrying out a function under these regulations.
- (4) On conviction for an offence under this section—
 - (a) an individual is liable to a term of imprisonment not exceeding 12 months or to a fine not exceeding \$10,000;
 - (b) a non-individual is liable to a fine not exceeding \$50,000.

23 **Immunity**

No person who does or omits to do any act in connection with the performance or exercise of any duty, function, or power conferred by or under these regulations is under any civil or criminal liability in respect of that act or omission, unless the act or omission was done in bad faith or without reasonable care.

Ministerial orders made under COVID-19 Act 2020

24 **Ministerial orders**

A Ministerial order made under the COVID-19 Act 2020 continues to have effect as if it were a direction made under regulation 7 whether or not the making and notification of the order complies with requirements in these regulations for making or notifying a direction under regulation 7.



Clerk of the Executive Council

These regulations are administered by the Ministry of Health.

These regulations were made on the 29 day of July 2022.