

Briefing

COVID-19 Public Health Response (Required Testing) Order: Amending the definition of health workers

Date due to MO:	4 May 2021	Action required by:	7 May 2021
Security level:	IN CONFIDENCE	Health Report number:	20210994
To:	Hon Chris Hipkins, Minister for COVID-19 Response		

Contact for telephone discussion

Name	Position	Telephone
Dr Ashley Bloomfield	Director-General of Health	s 9(2)(a)
Maree Roberts	Deputy Director-General of Health, System Strategy and Policy	s 9(2)(a)

Minister's office to complete:

- | | | |
|---|------------------------------------|--|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Decline | <input type="checkbox"/> Noted |
| <input type="checkbox"/> Needs change | <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn | |

Comment:

COVID-19 Public Health Response (Required Testing) Order: Amending the definition of health workers

Security level: IN CONFIDENCE **Date:** 4 May 2021

To: Hon Chris Hipkins, Minister for COVID-19 Response

Purpose of report

1. This report proposes an amendment to the COVID-19 Public Health Response (Required Testing) Order 2020 (the Order) to ensure the definition of health workers aligns with those undertaking testing work.
2. This report discloses all relevant information and implications.

Summary

3. You recently decided to increase the testing frequency for health practitioners in border settings from fortnightly to weekly [HR20210339 refers].
4. It has become apparent that some non-regulated health workers, such as health care assistants, have been involved in testing and symptom checking work, particularly in Managed Isolation and Quarantine Facilities. We advise that it is clinically appropriate for non-regulated health workers, i.e. health care assistants, to undertake this work under the supervision of a suitably qualified health practitioner.
5. This paper proposes minor amendments to the Order to ensure the health care assistant workforce that is involved in undertaking testing and/or symptom checking work are tested weekly, in line with the risk of exposure of health practitioners in the same settings.

Recommendations

We recommend you:

- a) **Note** that it is clinically appropriate for non-regulated health workers to undertake testing and/or symptom checking work under the supervision of a health practitioner
- b) **Agree** to amend the COVID-19 Public Health Response (Required Testing) Order 2020 to: **Yes/No**

- i. insert a definition of 'health worker' as any worker who undertakes testing and/or symptom checking work under the supervision of a suitably qualified health practitioner
 - ii. replace references to 'health practitioners' in Schedule 2 with references to 'health practitioners and health workers', to ensure both groups are tested weekly as per the current requirements for health practitioners captured by the Order
- c) **Note** that if you agree to the proposals in this paper, we are planning for a draft Order to be available for Ministerial consultation on 14 May 2021, with a final version of the Order to be ready for your signature on 25 May 2021
- d) **Note** that the timing outlined in rec (c) would allow the Order to come into force at 11:59pm on 31 May 2021.



Dr Ashley Bloomfield
Director-General of Health

Date:



Hon Chris Hipkins
Minister for COVID-19 Response

Date: 4/5/2021

PROACTIVELY RELEASED

COVID-19 Public Health Response (Required Testing) Order: Amending the definition of health workers

Background

1. The COVID-19 Public Health Response (Required Testing) Order 2020 (the Order) has been in place since 29 August 2020. The purpose of the Order is to prevent, and limit the risk of, the outbreak or spread of COVID-19, by ensuring specified border workers at risk of exposure to COVID-19 are tested on a regular basis.
2. The Order has been amended to bring in further groups of workers, change testing frequencies to reflecting changing risks in border settings, and implement measures to facilitate compliance with the testing requirements.
3. This paper proposes a minor amendment to the Order to ensure the definition of health workers is broad enough to capture the workforce that is undertaking testing work.

Proposal to amend the definition of health workers

The Order has provisions relating to health workers' role in testing border workers

4. The term 'health practitioner' is used in two separate provisions of the Order:
 - a. in clause 8(1), suitably qualified health practitioners may grant exemptions from the testing requirements to border workers with particular physical or other needs by determining that it would be inappropriate for them to undergo the testing
 - b. in Schedule 2, health practitioners working in managed isolation facilities, airside at airports, and at accommodation services where aircrew members are self-isolating are required to be tested weekly. These requirements came into force at 11:59pm on 21 April 2021 as part of the most recent set of amendments [HR20210488 refers].
5. The interpretation section of the Order defines the term 'health practitioner', by linking to the definition in section 5(1) of the Health Practitioners Competence Assurance Act 2003 (HPCAA). The definition of a health practitioner is a person who is registered with an authority as a practitioner of a particular health profession. For example, nurses who are registered with the Nursing Council are considered health practitioners under the HPCAA, but health care assistants are not because they are not registered with any authority.

The current definition of 'health practitioners' does not cover non-regulated health care assistants involved in testing work

6. We understand that non-regulated health care assistants have been involved in testing work in Managed Isolation and Quarantine Facilities.

7. We understand that the use of non-regulated health care assistants has been occurring since mid-2020. The rationale is that testing in this context is a suitable delegated activity that does not require the tester to have a regulated scope of practice.

Clinical appropriateness of staff who are not health practitioners being involved in testing work

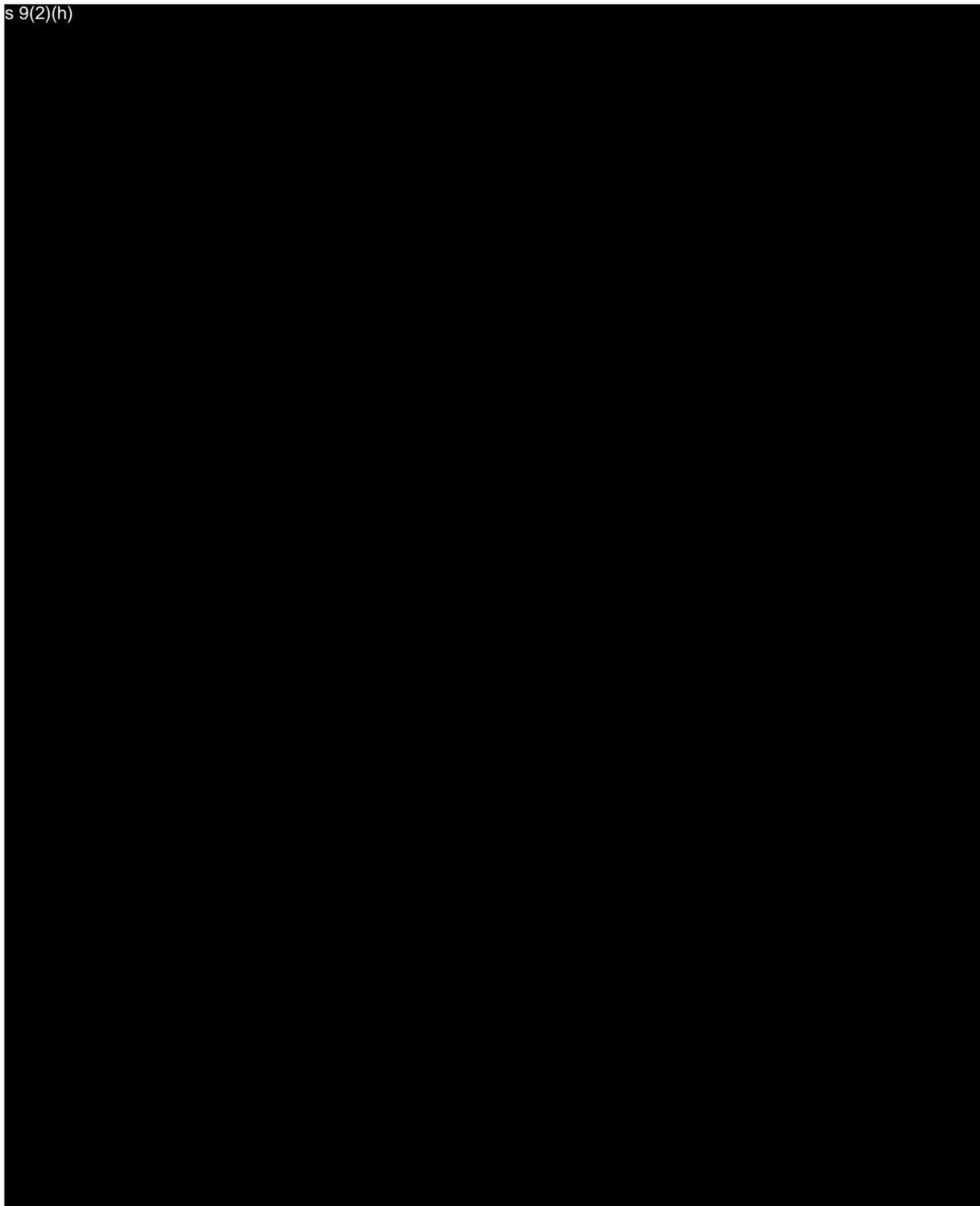
8. We consulted with the Ministry of Health's Clinical Chief Advisors Nursing and Infection Prevention and Control. They have advised that it is:
 - a. appropriate for non-regulated health workers, i.e. health care assistants, to undertake testing and/or symptom checking work, if this work occurs under the supervision of a health practitioner
 - b. not clinically appropriate for any other non-health staff to undertake testing and/or symptom checking
 - c. not clinically appropriate for non-regulated health workers or any other non-health staff to assess whether anyone required to be tested should be exempt from the testing requirements.

We propose changing the definition of 'health practitioner' to 'health worker' to ensure all workers involved in testing work are on the appropriate testing cycles

9. The definition covering those who may be involved in testing work needs to reflect the risk level, so that all workers are on the appropriate testing cycle.
10. You recently decided that health practitioners in various settings would shift from fortnightly to weekly testing cycles, to acknowledge the increased likelihood that their roles bring them into more proximate and/or frequent contact with international arrivals than non-health workers in the same setting [HR20210339 refers]. This change took effect from 11:59pm on 21 April 2021.
11. The proposed amendments are:
 - a. to add a definition of 'health worker' to the Order, defined as any worker who undertakes testing and/or symptom checking work under the supervision of a suitably qualified health practitioner
 - b. to change the references to 'health practitioners' in Schedule 2 of the Order to 'health practitioners and health workers'.
12. The effect of these amendments would be to ensure health care assistants who may be involved in testing work are tested on the appropriate weekly cycle. The Ministry's guidance already strongly recommends that these workers are tested weekly while this minor amendment to the Order is made.
13. If you agree to the proposals in this paper officials will provide you with a draft Amendment Order for Ministerial Consultation on 14 May 2021. Depending on the outcome of Ministerial Consultation the Order could come into force as early as 11:59 pm on 31 May 2021.

Amendments to the Order will have New Zealand Bill of Rights Act 1990 implications – legally privileged

s 9(2)(h)



Equity

22. The impacts of COVID-19 are felt differentially across New Zealand communities. Māori and Pacific communities and those living with disabilities, in lower socio-economic groups and crowded or institutional settings bear a greater portion of both health and economic impacts and risks. The mandatory border worker testing regime has been a key part of the response to prevent the outbreak or spread of COVID-19 to the community, particularly those communities with many workers in border settings.
23. We do not anticipate that this proposal involves any equity concerns as it is a minor amendment that reflects an existing policy decision [HR20210339 refers].

Next steps

24. Once we receive your decisions, we will work with agencies on implications and implementation planning and issue drafting instructions to the Parliamentary Counsel Office. We expect to provide you with a draft of the Amendment Order for Ministerial consultation by 14 May 2021.
25. Following Ministerial consultation, a final version of the Order would likely be ready for your signature on 25 May 2021. This timing would allow the Order to come into force at 11:59pm on 31 May 2021.

ENDS.