



PARLIAMENT OF THE COOK ISLANDS

PARLIAMENT PAPER NO. 135

Rarotonga.

Mr Speaker,

Pursuant to section 34 and 36 of the COVID-19 Act 2020, the Regulations Act 1971-72 and the Legislative Service Act 1968-69, I have the honour to submit the COVID-19 (Border Entry Requirements) Regulations 2022, Serial No. 2022/12

I have the honour to be,

Sir

Bob Williams
Secretary of Health

The HON. VAINETUTAI ROSE TOKI-BROWN, Minister Responsible for Health



COVID-19 (Border Entry Requirements) Regulations 2022

Sir Tom J. Marsters, KBE

Queen's Representative

Order in Executive Council

At Avarua, Rarotonga this 29th day of April 2022

Present:

His Excellency the Queen's Representative in Executive Council

Pursuant to sections 34 and 36 of the COVID-19 Act 2020, 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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Regulations

- 1 Title**
These regulations are the COVID-19 (Border Entry Requirements) Regulations 2022.
- 2 Commencement**
These regulations come into force on 1 May 2022.

Part 1 Preliminary provisions

- 3 Interpretation**
- (1) In these regulations, unless the context otherwise requires,—
- 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
- Avatiu Port** means the port of entry of Avatiu (on the Island of Rarotonga)
- Cook Islander**—
- (a) means a person who is part of the Maori race indigenous to the Cook Islands; and
 - (b) includes a person descended from a person referred to in paragraph (a)

Cook Islands means the area covering the islands and territorial sea of the Cook Islands, and includes ports and internal waters

Customs officer has the meaning given in section 4(1) of the Customs Revenue and Border Protection Act 2012

enter the Cook Islands, in relation to a vessel, has the meaning given in regulation 4

evidence of vaccination means evidence that complies with regulation 15

exclusive economic zone has the meaning given in section 4 of the Maritime Zones Act 2018

harbourmaster means the harbourmaster for Avatiu Port appointed under section 15 of the Ports Authority Act 1994-95

master has the meaning given in section 2(1) of the Maritime Transport Act 2008

medical practitioner means a medical practitioner registered and entitled to practise in the country where they practise

Ministry means the Ministry of Health

owner, in relation to a vessel, has the meaning given in section 2(1) of the Maritime Transport Act 2008

permanent resident means a person who, under the Cook Islands Immigration Act 2021, has permanent resident status or honorary permanent resident status, and includes a child of a permanent resident

Secretary means the Secretary of Health

territorial sea means the territorial sea of the Cook Islands described in section 8 of the Maritime Zones Act 2018

unvaccinated, in relation to a person, means that the person has not been vaccinated

vaccinated, in relation to a person, means that the person is vaccinated as provided under regulation 14

vaccination requirements means requirements to be vaccinated and to provide evidence of vaccination

vessel has the meaning given in section 2(1) of the Maritime Transport Act 2008.

- (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.

4 **Meaning of enter the Cook Islands, in relation to vessel**

- (1) In these regulations, **enter the Cook Islands** means, in relation to a vessel, to enter the Cook Islands whether lawfully or unlawfully and whether or not the vessel does any of the following:
- (a) lands, berths, moors, anchors, or stops at any place within the Cook Islands;
 - (b) hovers above any place in the Cook Islands;
 - (c) otherwise arrives at any place in the Cook Islands.
- (2) A vessel is not to be treated as entering the Cook Islands even though it leaves the territorial sea and re-enters it if the vessel—

- (a) travels from a place in the Cook Islands and returns to that place without leaving the exclusive economic zone; or
- (b) travels directly from a place in the Cook Islands to another place in the Cook Islands.

5 Application of regulations

These regulations apply to the entry, by aircraft or vessel, of persons from overseas destinations to the Cook Islands.

6 Relationship with other enactments

The requirements in these regulations are in addition to the requirements in any other enactment for entry to the Cook Islands.

Part 2 Border entry requirements

7 Entry requirements to enter Cook Islands by aircraft

- (1) A person may enter the Cook Islands by aircraft only if the person—
 - (a) is vaccinated and provides evidence of vaccination (unless, under regulation 16, the person is not required to comply with vaccination requirements); and
 - (b) has completed the online COVID-19 information form no earlier than 96 hours before the scheduled departure time of their flight to the Cook Islands.
- (2) If the person's flight does not leave for the Cook Islands at its scheduled departure time, the requirement in subclause (1)(b) applies in relation to any new scheduled departure time.
- (3) In this regulation, **online COVID-19 information form** means a form on a website maintained by or on behalf the Government requiring particular COVID-19-related information to be provided as directed by the Secretary.
- (4) This regulation is subject to Part 3 (exemptions and waivers).

8 Entry requirements to enter Cook Islands by vessel

- (1) A person may enter the Cook Islands by vessel only if the person is vaccinated and provides evidence of vaccination (unless, under regulation 16, the person is not required to comply with vaccination requirements).
- (2) This regulation is subject to Part 3 (exemptions and waivers).

Part 3 Exemptions and waivers

Crew exemptions

9 Aircrew and crew of vessels exempt from entry requirements

- (1) The following persons are exempt from the requirements in these regulations:
 - (a) an aircrew member of an aircraft that arrives in the Cook Islands;
 - (b) a member of the crew of a vessel that arrives in the Cook Islands.

- (2) The exemption in subclause (1) applies only if the person complies with any conditions.
- (3) In this regulation,—
- aircrew member** means any person who—
- (a) is identified as a crew member on the crew manifest for the aircraft on which they arrive in the Cook Islands; or
 - (b) is not identified as a crew member on that manifest but is on the aircraft at the direction of an airline for which they work as a pilot, co-pilot, or flight attendant
- conditions** means conditions imposed by the Secretary of Foreign Affairs and Immigration in writing and notified to the air carrier responsible for the aircraft or the master of the vessel, as the case may be
- crew of a vessel**—
- (a) means persons employed or engaged for hire or reward on board the vessel on which they arrive in the Cook Islands; and
 - (b) includes—
 - (i) the master; and
 - (ii) a person who is temporarily working on the vessel.

Diplomatic immunity

- 10 Persons entitled to diplomatic immunity exempt from entry requirements**
- (1) A person entitled to diplomatic immunity is exempt from the requirements in these regulations.
- (2) In subclause (1), **diplomatic immunity** means any immunity from jurisdiction—
- (a) under the Diplomatic Privileges and Immunities Act 1968, the Consular Privileges and Immunities Act 1971, or the New Zealand Representative Act 1980; or
 - (b) by any order under any of those Acts.

Other exemptions

- 11 Other exemptions for persons on vessels**
- A person is exempt from the requirements in these regulations if the person is on a vessel that —
- (a) is in distress; or
 - (b) must enter the Cook Islands to preserve human life; or
 - (c) is a foreign vessel that is exercising, in accordance with the United Nations Convention on the Law of the Sea, the right of—
 - (i) innocent passage through the territorial sea; or
 - (ii) transit passage through straits used for international navigation.
- 12 Other exemption for persons on aircraft**
- A person is exempt from the requirements in these regulations if the person is on an aircraft that must enter the Cook Islands to preserve human life.

*Secretary may waive entry requirements***13 Secretary may waive entry requirements**

- (1) The Secretary may, after consultation with the Secretary of Foreign Affairs and Immigration, waive any or all of the requirements in these regulations if—
- (a) there is, or has been, a medical emergency or natural disaster that makes it impracticable for the requirements to be complied with;
 - (b) critical work needs to be urgently carried out that makes it impracticable for the requirements to be complied with;
 - (c) the requirements should be waived on compassionate or humanitarian grounds.
- (2) A waiver may be for a person or a class of persons.
- (3) A waiver must be in writing.

Part 4

Vaccination requirements

*Meaning of key terms***14 COVID-19 vaccines**

In these regulations, a person is **vaccinated** if the person has received at least all of the doses of any of the COVID-19 vaccines specified in the Schedule at least 14 days before the scheduled departure date of their flight to the Cook Islands.

15 Evidence of vaccination

- (1) In these regulations, **evidence of vaccination** for a person is an electronic or paper document that confirms—
- (a) that the person has received a COVID-19 vaccine; and
 - (b) the name of the COVID-19 vaccine that the person has received; and
 - (c) the name of the Government or national agency that issued the certificate; and
 - (d) the date on which the person received—
 - (i) the dose of the COVID-19 vaccine, if only 1 dose is specified for that vaccine in the Schedule; or
 - (ii) the last dose of the COVID-19 vaccine, if more than 1 dose is specified for that vaccine in the Schedule.
- (2) The Secretary may accept as evidence of vaccination a document that does not comply with subclause (1) if the Secretary considers that the document provides satisfactory evidence that the person is vaccinated.

*Persons not required to comply with vaccination requirements***16 Persons not required to comply with vaccination requirements**

The following persons are not required to comply with vaccination requirements to enter the Cook Islands:

- (a) a Cook Islander or permanent resident:

- (b) a person under the age of 16 years;
- (c) a person who holds—
 - (i) a medical exemption granted by the Secretary under regulation 19; or
 - (ii) a COVID-19 vaccination exemption granted by the New Zealand Director-General of Health.

17 Application for medical exemption from vaccination requirements

- (1) A medical practitioner may apply to the Secretary for a medical exemption from vaccination requirements on behalf of a person who is unvaccinated.
- (2) An application may only be made on the ground in regulation 18.
- (3) An application must be in a form approved by the Secretary.
- (4) The unvaccinated person must—
 - (a) certify that the information they have provided to the medical practitioner for the purposes of making the application is accurate; and
 - (b) sign the application.
- (5) An application must be accompanied by a certificate signed by the medical practitioner certifying that they—
 - (a) have reviewed the unvaccinated person's medical history and assessed the person's state of health; and
 - (b) reasonably believe that the unvaccinated person meets the requirements of the ground in regulation 18.
- (6) The medical practitioner must state the reasons for believing that the person meets the requirements of the ground in regulation 18.
- (7) On receiving an application, the Secretary may ask the medical practitioner or unvaccinated person to provide any evidence or further information that the Secretary reasonably requires for the purposes of deciding whether to grant the application.

18 Ground for grant of medical exemption from vaccination requirements

- (1) The ground for granting a medical exemption from vaccination requirements is that the unvaccinated person on whose behalf an application is made cannot receive a COVID-19 vaccine because the vaccine is contraindicated for the person and a suitable alternative vaccine is not readily available.
- (2) To avoid doubt, the following are not valid reasons for granting a medical exemption for an unvaccinated person:
 - (a) the person has had a negative experience with other vaccines;
 - (b) the person is disabled;
 - (c) the person is pregnant.

19 Grant of medical exemption from vaccination requirements

- (1) The Secretary may grant an application for a medical exemption from vaccination requirements if the Secretary is satisfied, on the basis of the evidence or other information provided, that the unvaccinated person on whose behalf an application is made meets the requirements of the ground in regulation 18.
- (2) A medical exemption is valid for the period that the Secretary determines.

Part 5

Obligations of air carriers, masters, and owners of vessels

20 Obligations of air carriers under these regulations

An air carrier operating an aircraft must not allow a person to travel to the Cook Islands on the aircraft if the person does not meet the requirements for entry in these regulations.

21 Obligations of masters and owners of vessels under these regulations

- (1) An owner of a vessel must not allow a person to travel to the Cook Islands on the vessel if the person does not meet the requirements for entry in these regulations.
- (2) The master of a vessel must ensure that, if the vessel enters the Cook Islands, the vessel—
 - (a) proceeds directly to Avatiu Port and berths or lands there, after consulting with the harbourmaster and in accordance with any directions of a Customs Officer; and
 - (b) does not berth or land anywhere in the Cook Islands except for Avatiu Port until paragraph (a) has been complied with.
- (3) A master is not required to comply with subclause (2) if—
 - (a) the harbourmaster or a Customs Officer directs otherwise; or
 - (b) an accident, weather, or another necessity compels the master to berth or land the vessel somewhere other than Avatiu Port.

Part 6

Revocations

22 Revocations

The following regulations are revoked:

- (a) COVID-19 (Air Border) Regulations 2022;
- (b) COVID-19 (Maritime Border) Regulations 2021.

Schedule
COVID-19 vaccines

- (a) 2 doses of Pfizer/BioNTech (Comirnaty, Tozinameran, BNT162b2):
- (b) 2 doses of AstraZeneca (Vaxzevria, AZD1222):
- (c) 2 doses of AstraZeneca (Covishield, Serum Institute of India formulation):
- (d) 2 doses of Moderna (Spikevax, mRNA-1273):
- (e) 1 dose of Janssen/Johnson & Johnson (Janssen COVID-19 Vaccine, Ad26.COV2.S, Ad26COVS1, JNJ-78436735):
- (f) 2 doses of Sinopharm, Beijing (BBIBP-CorV, BIBP vaccine, Covilo):
- (g) 2 doses of Sinovac (CoronaVac, PiCoVacc):
- (h) 2 doses of Bharat Biotech (Covaxin, BBV152):
- (i) 2 doses of Novovax (Nuvaxovid, NVX-CoV2373):
- (j) a COVID-19 vaccine (including a combination of doses of different vaccines), specified in writing by the Secretary and published on a publicly accessible website maintained by, or on behalf of, the Ministry.

JJ Harold Browne
Clerk of the Executive Council

These regulations are administered by the Ministry of Health.

These regulations were made on the _____ day of _____ 2022.