

Special Measures Order (Proof of Vaccination Status)

**Made pursuant to Section 28 of the
Public Health Protection and Promotion Act**

October 22, 2021

TO: All individuals, businesses and organizations operating in Newfoundland and Labrador

WHEREAS:

- A.** While a declaration of a public health emergency is in effect, the Chief Medical Officer of Health may do one or more of the special measures authorized under section 28 of the **Public Health Protection and Promotion Act** for the purpose of protecting the health of the population and preventing, remedying or mitigating the effects of the public health emergency;
- B.** On March 18, 2020, the Minister of Health and Community Services, on the advice of the Chief Medical Officer of Health, declared:
 - (i) a public health emergency as a result of the COVID-19 pandemic;
 - (ii) the public health emergency is in effect for the entire province of Newfoundland and Labrador; and
 - (iii) the public health emergency is in effect for a period of 14 days effective immediately;
- C.** The public health emergency has been extended for 14-day intervals and is currently still in effect.
- D.** The Chief Medical Officer of Health, pursuant to subsection 28(2) of the **Public Health Protection and Promotion Act**, may provide notice in any manner that can reasonably be expected to give actual notice;
- E.** The Chief Medical Officer of Health, pursuant to section 28 of the **Public Health Protection and Promotion Act**, made Special Measures Order (Re-Opening – Step 2 - Updated) dated August 9, 2021;
- F.** The Chief Medical Officer of Health believes that further special measures are necessary for the purpose of protecting the health of the population and preventing, remedying or mitigating the effects of the public health emergency; and

G. The Chief Medical Officer of Health believes, in accordance with section 13 of the **Public Health Protection and Promotion Act**, that the restrictions set out in this Special Measures Order (Proof of Vaccination Status) are the least intrusive measures reasonably required in the circumstances to respond to the public health emergency,

Pursuant to section 28 of the **Public Health Protection and Promotion Act**, I, Dr. Rosann Seviour, Acting Chief Medical Officer of Health **HEREBY ORDER**:

Definitions

1. In this Order,
 - a. "Approved verifier application" means the NLVaxVerify application, used by businesses and organizations, as approved by the Government of Newfoundland and Labrador;
 - b. "COVID-19 vaccine" means a vaccine approved by Health Canada, as may be approved from time to time;
 - c. "Fully vaccinated" means when at least two weeks have passed since an individual's second dose of COVID-19 vaccine or first dose where an individual has received a one-dose COVID-19 vaccine and, for the purpose of this Special Measures Order includes those individuals who have been granted an approved medical exemption from receiving the COVID-19 vaccine;
 - d. "Proof of identity" means an official document issued by a government, public body or educational institution which includes an individual's name and date of birth and, for individuals 19 years of age or older, also includes a photograph;
 - e. "Proof of vaccination" means an official document in a physical or electronic form that confirms that a person is fully vaccinated and includes the following:
 - i. Electronic QR Code using the NLVaxPass application, as downloaded by individuals, or saved to a mobile device;
 - ii. Physical copy of QR Code;
 - iii. Physical copy of a COVID-19 vaccination record issued by the Government of Newfoundland and Labrador; or
 - iv. Physical or electronic copy of an official vaccination record issued outside of Newfoundland and Labrador; and

- f. "Unvaccinated" means an individual who has not received any dose of COVID-19 vaccine and, for the purpose of this Order, includes an individual who has received only one dose of COVID-19 vaccine where the vaccine consists of two doses.

Applicability

- 2. Only fully vaccinated individuals shall be permitted entry, in accordance with this Special Measures Order, to the following businesses, organizations and activities:
 - a. Gatherings of any size that are hosted at a recognized business or organization, a rental room, community centre, or other venue used to host gatherings;
 - b. Arenas;
 - c. Indoor gyms and fitness facilities, yoga studios and dance studios;
 - d. Places where sports and recreational activities are practiced indoors;
 - e. Places where group music, art, dance, and drama activities are practiced indoors, including bands, choirs, dance and music classes;
 - f. Indoor entertainment facilities;
 - g. Businesses that hold a license under the **Liquor Control Act** whose primary purpose is the consumption of beer, wine, or spirits;
 - h. Restaurants for indoor seated dining only;
 - i. Cinemas and performance spaces;
 - j. Bingo halls;
 - k. Personal service establishments;
 - l. Car dealerships; and
 - m. Except for its residents, congregate living settings for seniors.
- 3. For greater certainty, this Special Measures Order does not apply to the following businesses, organizations and activities:
 - a. At school or school-based activities;
 - b. Child care;
 - c. Post-secondary institutions;
 - d. Retail stores, shopping malls, and public markets;
 - e. Health care facilities, including private health clinics;
 - f. Community agencies offering essential services;
 - g. Taxis and public transit;
 - h. Hotel, motel and bed and breakfast accommodations;
 - i. Places where government and other public services are; and
 - j. Financial institutions.
- 4. This Special Measures Order does not apply to children under the age of 12 years.

Children aged 12 to 18 years

5. Notwithstanding Order No. 2, individuals aged 12 to 18 years are not required to provide proof of vaccination for the following businesses, organizations or activities only:
 - a. Arenas;
 - b. Indoor gyms, fitness facilities, yoga studios and dance studios;
 - c. Indoor sport or recreational activities; and
 - d. Indoor group music, art, dance and drama activities.
6. For the purpose of this Order, children have three months from their 12th birthday to obtain fully vaccinated status. If it has been less than three months since their 12th birthday, they are permitted to access those businesses, organizations and activities listed in Order No. 2 without the requirement to provide proof of vaccination.

Religious and Faith-Based Organizations

7. Notwithstanding Special Measures Order (Re-Opening – Step 2 – Updated) dated August 9, 2021, operators or organizers of religious or faith-based services and activities who do not verify proof of vaccination for persons entering their premises or participating in their services or activities, must comply with the following restrictions:
 - a. Occupancy is limited to not more than 50 per cent capacity;
 - b. All individuals in attendance, including the officiant(s) and any musicians, must wear a mask at all times;
 - c. Singing by the congregation is not permitted;
 - d. Physical distancing must be maintained between individuals from different family groups;
 - e. Names and contact information of all individuals in attendance must be collected and retained for 14 days for the purpose of providing to public health officials for contact tracing where requested; and
 - f. Entry is restricted to only those individuals who do not have any COVID-19 symptoms and who are not required to self-isolate for any reason.

Operator and Organizer Responsibilities

8. Subject to Order No. 5 and Order No. 6, operators and organizers shall require individuals aged 12 years or older to provide proof of vaccination and proof of identity before permitting the individual to enter premises or attend an activity referred to in Order No. 2.

9. Operators and organizers shall only scan a QR code containing proof of vaccination using the approved verifier application.
10. Operators and organizers shall use proof of vaccination to verify that an individual is fully vaccinated prior to permitting entry to a premises or attendance at an activity listed in Order 2 and for no other purpose.
11. Subject to Order No. 12, operators and organizers shall not retain copies of proof of vaccination or proof of identity of individuals entering their premises or attending their activities.
12. Where an individual agrees in writing, operators and organizers may retain a record of the fact that an individual has provided proof of vaccination and may rely upon this record to verify proof of vaccination for future occasions. Businesses and organizations shall immediately destroy any such records upon termination of this Special Measures Order or at the individual's request.

Individual Responsibilities

13. Individuals who are unvaccinated must not enter or attempt to enter the premises of a business or organization, nor attend or attempt to attend an activity listed in Order No. 2.
14. Subject to Order No. 5 and Order No. 6, individuals aged 12 years or older must provide proof of vaccination and proof of identity to access those businesses, organizations or activities set out in Order No. 2 above.
15. When submitting proof of vaccination to an operator or organizer, individuals must:
 - a. demonstrate that they are the legitimate holder of the proof of vaccination that they present to an operator or organizer; and
 - b. ensure that the proof of vaccination is true and accurate and that it has not been modified, altered, forged or fraudulently made.
16. Individuals must not modify or alter a document that provides proof of vaccination or fraudulently create a proof of vaccination for the purpose of entering into the premises of a business or organization or to attend an activity listed in Order No. 2.

IT IS FURTHER ORDERED THAT:

1. This Order applies to all individuals, businesses and organizations operating in Newfoundland and Labrador.

2. This Special Measures Order (Proof of Vaccination Status) is effective as of 12:01 a.m. on October 22, 2021.
3. All other Special Measures Orders and Exemption Orders remain in full force and effect.

TAKE NOTICE THAT:

1. Failure to comply with this order may result in an application to the Supreme Court, in accordance with section 42 of the **Public Health Protection and Promotion Act** to enforce the relevant provisions of this Order.
2. A person who is subject to an order made by the Chief Medical Officer of Health may request that the Chief Medical Officer of Health reconsider the order by filing a written request for reconsideration within 7 days after the day on which the order is served on a person. A written request for review or reconsideration of this order shall include:
 - (i) the reasons for the request;
 - (ii) a summary of the facts relevant to the request;
 - (iii) whether the order should be revoked or how it should be varied; and
 - (iv) the contact information of the person making the request and shall be sent to the following address:

The Chief Medical Officer of Health
Department of Health and Community Services
PO Box 8700
St. John's, NL A1B 4J6

3. The Chief Medical Officer of Health shall review this Order no less than once every 5 days while the Order is in effect.
4. This Order remains in effect during any review or reconsideration.
5. Failure to comply with this Order is an offence for which you may be liable on summary conviction in accordance with section 56 of the **Public Health Protection and Promotion Act**.
6. For greater certainty, compliance with this Order is required in addition to and not in substitution for any requirement imposed by or under any applicable law.

Signed at St. John's, Newfoundland and Labrador, this 7 day of October, 2021.

A handwritten signature in blue ink that reads "Rosann Seviour". The signature is fluid and cursive, with "Rosann" on the top line and "Seviour" on the bottom line, slightly overlapping.

Dr. Rosann Seviour
Chief Medical Officer of Health