

**Provided by email from Jessica Gorman, Principal Solicitor, DPMC to Minister Hipkins' Office**

[Wednesday, 18 August 2021 6:53 pm]

Erin/Morehu, could you ensure that the following is provided to the Minister together with the Order amending the COVID-19 Public Health Response (Alert Level Requirements) order (No .9) [DPMC-2021/22-190] that was enacted last night to put New Zealand in Alert Level 4.

### **High Level Summary of the Amendment Order**

#### Face coverings:

This amendment brings into force the mandating of face coverings during Alert Level 4, unless otherwise exempt, as agreed by Ministers with powers to Act this morning [DPMC-2021/22-189].

The order:

- Requires that face coverings are worn by a person who is a passenger on a small passenger service vehicle (e.g. taxis);
- Requires that face covering must be worn by every person on the premises of an alert level 4 business and service that has customers onsite with the standard exclusions applying.

#### Care of children and others and visiting residential disability care:

The order is amended to allow for the provision of childcare for a person who is required to work outside their home as part of the order (i.e. within an Alert Level 4 business or service or otherwise exempt business or service) and who does not have someone within their bubble to provide childcare. The person providing the childcare needs to form a shared bubble with the person who is working.

Parliamentary Services:

#### This amendment clarifies that the order does not apply to:

- MPs and Parliamentary Staff and officers of parliament (because the Act prevents the closure of parliament).
- Ministers of the Crown and the Ministerial staff in relation to government business.

### **48 Hour Notification Period Not Required**

The Act requires that a COVID-19 order must be published a gazetted at least 48 hours before it comes into force. However, this notice period is not required to be observed where the Minister is satisfied that the order should come into force urgently to prevent or contain the outbreak or spread of COVID-19 or the effect of the order is only to remove or reduce requirements imposed by a COVID-19 order.

In this instance, officials advise that the amendments to meet this threshold as the use of face coverings is required urgently in order to contain the spread of COVID-19 by limiting transmission. Other amendments to the order are considered a reduction of requirements imposed by the order.

### **Consultation**

The consultation required under the Act took place on the basis of the advice received and agreed to by Ministers this morning [CVD-21-MIN-0003].

Crown Law have also reviewed the proposed order.

### **Public Health Advice**

Public Health advice regarding mandating the use of face coverings was considered by Ministers this morning [CVD-21-MIN-0003].

Public health have advised that the proposed amendment to allow for the provision of childcare is acceptable as long as the bubble is exclusive of no more than 2 bubbles joining and as long as standard public health advice is applied (i.e. to stay home if symptomatic, if have been at a location of interest, or they are a contact of a case).

### **New Zealand Bill of Rights Act 1990**

s9(2)(h)