



Briefing

ALERT LEVEL REQUIREMENTS ORDER (ALERT LEVEL 3 AND 4) FOR SIGNING

To Minister for COVID-19 Response (Hon Chris Hipkins)			
Date	30/08/2021	Priority	URGENT
Deadline	30/08/2021	Briefing Number	DPMC-2021/22-246

Purpose


Attached to this briefing is the proposed COVID-19 Public Health Response (Alert Level Requirements) Order (No 10) 2021, which we recommend that you sign. This order takes into account today's Cabinet decisions with regard to COVID-19 Alert Level settings.

This briefing summarises the effect of the order and confirms that the necessary procedural requirements for the making of COVID-19 Orders have been complied with.

Recommendations

- Note** that this brief provides a summary of the key provisions of the proposed order
- Note** that the necessary procedural requirements for the making of COVID-19 Orders have been complied with
- Sign** the COVID-19 Public Health Response (Alert Level Requirements) Order (No 10) 2021 (**Attachment A**)

YES / NO

 Ruth Fairhall Head of Strategy & Policy COVID-19 Group, DPMC
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Hon Chris Hipkins Minister for COVID-9 Response
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Contact for telephone discussion if required:

Name	Position	Telephone	1st contact
Ruth Fairhall	Head of Strategy & Policy, COVID-19 Group,	s9(2)(a)	
Jess Gorman	Principal Solicitor, DPMC	s9(2)(a)	✓

Minister's office comments:

- Noted
- Seen
- Approved
- Needs change
- Withdrawn
- Not seen by Minister
- Overtaken by events
- Referred to

Proactively Released

ALERT LEVEL REQUIREMENTS ORDER (ALERT LEVEL 3 AND 4) FOR SIGNING

This order gives effect to Cabinet's decisions about changes to the current Alert Level settings

1. The COVID-19 Public Health Response (Alert Level Requirements) Order (No 10) 2021 continues to impose Alert Level Four requirements for the Auckland and Northland Regions. Alert Level Three requirements are imposed for the remainder of New Zealand. In summary, this means that:
 - a) People are not able to move between the Alert Level Areas, except as specifically permitted (clauses 16 and 17);
 - b) For Auckland and Northland, the existing Alert Level 4 requirements continue to be imposed, with the following additional requirements:
 - i) Businesses that can operate in Alert Level 4 must have systems and processes to minimise travel between Alert Level Areas and the risks arising from such travel (clause 25).
 - ii) From 11:59pm Tuesday 7 September, certain businesses that can operate must have systems in place to ensure that those entering the workplace either scan the QR code, make their own record, or provide a record for contact tracing purposes (the Contact Record Rule).
 - c) For the remainder of New Zealand, Alert Level 3 requirements will be imposed. The key differences from Level 4 are that:
 - i) Premises are only required to close if they cannot operate in accordance with Level 3 requirements. This will allow, for example butchers, greengrocers and fishmongers to open to customers and a wider variety of businesses can operate delivery and/or click-and-collect services.
 - ii) Businesses that are able to operate in Alert Level 3 must have systems and processes to minimise travel between regions and between Alert Level Areas and the risks arising from such travel (clause 36).
 - iii) Controlled gatherings of no more than 10 people (including any celebrant, organiser, or other assistant) can take place for funerals, tangihanga, and wedding or civil union ceremonies. No food or drink is allowed to be served at such gatherings.

Procedural Requirements for a COVID-19 Order

2. This proposed order is a s 11 COVID-19 Order, which you can make pursuant to the COVID-19 Public Health Response Act 2020 (The Act). The Act imposes certain requirements for the form, publication and making of COVID-19 Orders. You must be sure that these requirements have been complied with before making a COVID-19 Order.

48 Hour Notification Period

3. The Act requires that a COVID-19 Order must be published and gazetted at least 48 hours before it comes into force. However, this notice period is not required to be observed where you are satisfied that the Order should come into force urgently to prevent or contain the outbreak or spread of COVID-19 or where the effect of the Order is only to remove or reduce requirements imposed by a COVID-19 Order.
4. In this instance, two elements of the Order impose greater restrictions than those currently in place. The first is the imposition of the Contact Record Rule. This aspect of the order comes into effect at 11:59pm Tuesday 7 September. Accordingly, the notification period is observed in respect of that requirement.
5. The other element of the Order that imposes greater restrictions is the requirement for businesses and services in both alert level areas to have systems and processes to minimise travel between districts/regions and between Alert Level Areas. This is a requirement that needs to be imposed urgently to make the Alert Level boundary effective. Accordingly, we advise that the 48-hour notice period need not be observed with respect to this aspect of the order.
6. The remaining changes to existing settings either clarify those settings or are a reduction of requirements. Accordingly, the 48-hour notice period need not be observed with respect to these remaining changes.

Consultation

7. The Act requires that before making a COVID-19 order, you must consult with the Prime Minister, the Minister of Justice and the Minister of Health. You may also consult with any other Minister you think fit.
8. The Alert Level settings reflected in this order were considered and agreed by Cabinet today and on Friday 27 August. Accordingly, your obligation to consult with the specified Ministers has been discharged.

Public Health Advice

9. The Act requires that before making a COVID-19 order, you must have had regard to advice from the Director-General of Health about the risks of the outbreak or spread of COVID-19 and the nature and extent of measures (whether voluntary or enforceable) that are appropriate to address those risks.
10. The Director-General provided advice in support of Cabinet's consideration of the Alert Level settings today. Accordingly, your obligation in this respect has also been discharged.

New Zealand Bill of Rights Act 1990

11. In addition to the specified requirements from the Act, a further matter for you to consider each time a COVID-19 order is proposed is whether the exercise of your power to do so is appropriate in the circumstances. In particular, the power to make an order under section 11 of the Act must be exercised consistently with the New Zealand Bill of Rights Act 1990 (NZBORA).

12. s9(2)(h)



Consultation

13. In addition to the Ministerial consultation described above, the draft Order was distributed to a wide range of agencies. Feedback from the following agencies was incorporated into the drafting of the Order:
- a) Department of Corrections;
 - b) Department of Internal Affairs;
 - c) Ministry of Business, Innovation and Employment;
 - d) Ministry of Education
 - e) Ministry for the Environment;
 - f) Ministry of Health;
 - g) Ministry of Justice;
 - h) Ministry for Primary Industries;
 - i) Ministry of Transport;
 - j) National Emergency Management Agency;
 - k) NZ Police; and
 - l) Office of the Privacy Commissioner

Attachments:	
Attachment A:	COVID-19 Public Health Response (Alert Level Requirements) Order (No 10) 2021 (Signature Copy)

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