

Briefing

ALERT LEVEL FOUR – COVID-19 PUBLIC HEALTH RESPONSE ORDERS

To Minister for COVID-19 Response (Hon Chris Hipkins)			
Date	17/08/2021	Priority	URGENT
Deadline	17/08/2021	Briefing Number	DPMC-2021/22-190


Purpose


Attached to this briefing, for your signature, is the COVID-19 Public Health Response (Alert Level Requirements) Order (No 9) 2021. This Order has the effect of placing New Zealand into Alert Level 4 effective from 11:59pm today, Tuesday 17 August 2021. This briefing provides an overview of this order, demonstrates procedural compliance and recommends that you sign it.

Recommendations

1. **Sign** the COVID-19 Public Health Response (Alert Level Requirements) Order (No 9) 2021 (**Attachment A**).

YES / NO

 Ruth Fairhall Head of Strategy & Policy COVID-19 Group, DPMC
17/8/21

 Hon Chris Hipkins Minister for COVID-9 Response
17/8/2021

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		✓

Minister's office comments:

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- Withdrawn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

Proactively Released

ALERT LEVEL FOUR – COVID-19 PUBLIC HEALTH RESPONSE ORDERS

High Level Summary of the Alert Level 4 Order

1. This Order imposes the requirements agreed by Ministers to be put in place for COVID-19 Alert Level 4 including requirements:
 - a) to only undertake essential personal movement, where permitted (cl 16);
 - b) to comply with physical distancing protocols (cl 17);
 - c) for most workplaces to close for most purposes (cl 18);
 - d) for workplaces, when they can open, to have systems and processes in place for physical distancing protocols (cl 19); and
 - e) prohibiting attending gatherings in outdoor spaces (cl 21);
2. Schedule 2 sets out Alert Level 4 Businesses and Services that can operate at Alert Level 4. The order allows for their workers to travel to and be on their premises, as required.
3. Clause 24 empowers the Director General of Health to grant exemptions from the Order. To do so he must be satisfied the exemption is necessary or desirable in order to promote the purposes of the Act or Order, and the extent of the exemption is not broader than is reasonably necessary to address the matters that gave rise to the exemption.

Process for Making a Section 11 Order

4. Under the COVID-19 Public Health Response Act 2020 (the COVID-19 Act), an Order may be made if either:
 - a) a state of emergency has been declared (under the Civil Defence Emergency Management Act 2002);
 - b) an Epidemic Notice is in force (under the Epidemic Preparedness Act 2006); or
 - c) it has been authorised by the Prime Minister.
5. There is currently an Epidemic Notice in place, which allows Orders to be made under section 11 of the COVID-19 Act.
6. As the Minister for COVID-19 Response, you may make an Order under section 11 of the COVID-19 Act.
7. To make an Order under section 11 you must:
 - a) have received advice from the Director-General about –
 - i. the risks of the outbreak or spread of COVID-19; and
 - ii. the nature and extent of measures that are appropriate to address those risks; and

- b) have regard to any decision by the Government on how to respond to those risks and avoid, mitigate or remedy the effects of the outbreak or spread of COVID-19 (including considering any social, economic or other factors); and
- c) be satisfied that the proposed Order does not limit, or is a justified limit, on the rights and freedoms in the New Zealand Bill of Rights Act 1990; and
- d) have consulted the Prime Minister, the Minister of Justice and Health and any other Ministers you think necessary; and
- e) be satisfied that this Order is appropriate to achieve the purpose of the COVID-19 Act.

Other points of note

- 8. You should note that that New Zealand Defence Force (NZDF) can operate under a general exemption from the order, pursuant to cl 23(k). Accordingly, the making of this order will not have an impact on imminent operations in relation to the events in Afghanistan or any other NZDF operations.
- 9. We are advised it is intended that banks should be allowed to open with social distancing and contactless interactions for customers with no other means of accessing banking services. However, this was not able to be captured in the text of the order as drafted this evening and will instead be allowed through an exemption granted by the Director-General of Health pursuant to clause 24 of the order.
- 10. There are currently between 3000 and 4500 people in the Cook Islands who travelled there under Quarantine Free Travel (QFT) arrangements. Under the definition of essential personal movement, people returning to New Zealand who are not subject to the Isolation and Quarantine Order (such as QFT travellers) are able to travel home upon arrival in New Zealand.

Consultation

- 11. Under section 9(1)(c) of the COVID-19 Act you are required to consult with the Prime Minister, Minister of Justice and Minister of Health before making a COVID-19 Order. They attended the meeting with Ministers with Power to Act earlier today. Accordingly, your requirement to consult with these Ministers has been complied with.

Public Health Advice

- 12. Earlier today, the Director General of Health provided you advice [Health Report 20211889 refers], which detailed what is known about the current community case of COVID-19. The Director General's advice stated in part: "my public health advice is to move Auckland and the Coromandel Peninsula to Alert Level 4 for an initial period of seven-days and the rest of the New Zealand for at least 72 hours from 11.59pm on 17 August 2021."
- 13. Accordingly, the requirement to receive 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 that are appropriate to address those risks has also been complied with.

New Zealand Bill of Rights Act 1990

s9(2)(h)



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s9(2)(h)



Attachments:	
Attachment A:	COVID-19 Public Health Response (Alert Level Requirements) Order (No 9) 2021 (Signature copy)

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