



Epidemic Preparedness (Oaths and Declarations Act 1957) Immediate Modification Order 2020

Patsy Reddy, Governor-General

Order in Council

At Wellington this 16th day of April 2020

Present:

The Right Hon Jacinda Ardern presiding in Council

This order is made under section 15 of the Epidemic Preparedness Act 2006—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister of Justice, made after being satisfied of the matters required by section 15(2)(b) of that Act and after receiving from the chief executive of the Ministry of Justice a written recommendation stating the matters required by section 15(2)(a) of that Act.

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Order

1 Title

This order is the Epidemic Preparedness (Oaths and Declarations Act 1957) Immediate Modification Order 2020.

2 Commencement

This order comes into force on 17 April 2020.

3 Enactment to which modifications made

This order modifies requirements imposed by the Oaths and Declarations Act 1957 (the **Act**).

4 Requirements relating to presence modified

- (1) To the extent that Part 1 of the Act requires an oath to be sworn, or an affirmation to be made, in the presence of the person administering the oath or affirmation (the **administrator**),—
 - (a) that requirement is waived; and
 - (b) Part 1 has effect as if the administrator may instead administer the oath or affirmation using an audiovisual or audio link with the person swearing or making the oath or affirmation (subject to subclause (2)).
- (2) If the oath or affirmation is, or is required to be evidenced, in writing,—
 - (a) the administrator must be satisfied that the person swearing or making the oath or affirmation signed the document concerned in the course of the audiovisual or audio link; and
 - (b) as soon as practicable after signing the document, the person must send the signed document (or a photograph or scan of the signed document) to the administrator for the signature of the administrator.
- (3) In this clause,—

administer an oath or affirmation includes take a declaration

affirmation includes a declaration.

5 Modification relating to who may take statutory declaration

- (1) Section 9(1) of the Act (including as modified by clause 4) has effect as if the following paragraph were inserted after section 9(1)(j):
 - (k) any officer or employee of an entity who is authorised for that purpose by or on behalf of the entity, but only if an enactment authorises or requires the declaration to be provided to the entity.
- (2) Section 9 of the Act is modified as if it were amended by inserting after section 9(2):
- (3) In this section, **entity** means any of the following:

- (a) an individual:
- (b) a company or other body corporate:
- (c) a corporation sole:
- (d) an unincorporated body (including a partnership).

6 Revocation

This order is revoked when the Epidemic Preparedness (COVID-19) Notice 2020 expires or is revoked.

Rachel Hayward,
for the Clerk of the Executive Council.

Explanatory note

This note is not part of the order, but is intended to indicate its general effect.

This order is made under the Epidemic Preparedness Act 2006 and its effect is temporary. It comes into force on 17 April 2020 and is revoked when the Epidemic Preparedness (COVID-19) Notice 2020 expires or is revoked. It modifies requirements imposed by the Oaths and Declarations Act 1957 (the **Act**) that may be impossible or impracticable to comply with during an epidemic.

The modifications expressly allow an oath, an affirmation, or a declaration to be administered or taken using an audiovisual or audio link instead of in the presence of the person swearing the oath or making the affirmation or declaration.

The modifications also enable a declaration to be taken by any officer or employee of an entity who is authorised by the entity, but only if an enactment authorises or requires the declaration to be provided to the entity.

Statement of reasons

The Minister of Justice is satisfied of the matters required by section 15(2)(b) of the Epidemic Preparedness Act 2006 for the reasons that follow.

Effects are, or are likely to be, such that the requirement is impossible or impracticable to comply (or comply fully) with

It is important that people are able to make oaths, affirmations, and declarations while the Epidemic Preparedness (COVID-19) Notice 2020 is in force. While the lockdown period is in force, it would be “impossible” or “impracticable” for most people to arrange for their oath, affirmation, or declaration to be administered or witnessed in person due to the isolation requirements. This applies to not only those made in New Zealand but also to those made overseas and needing to be recognised in New Zealand. Moreover, even if a lower alert level applies, it is likely to be important for vulnerable people to remain isolated.

Modifications go no further than reasonably necessary

The modifications are limited to modifying requirements of Part 1 of the Act for administering or taking oaths, affirmations, or declarations and are temporary (they end when the Epidemic Preparedness (COVID-19) Notice 2020 expires or is revoked). In particular, the modifications enable—

- an oath, a affirmation, or a declaration to be administered or taken using an audiovisual or audio link instead of in the presence of the person swearing the oath or making the affirmation or declaration; and
- a declaration to be taken by any officer or employee of an entity who is authorised by the entity, but only if an enactment authorises or requires the declaration to be provided to the entity.

Some people wishing to make oaths, affirmations, or declarations will not have access to digital devices or smart phones. For that reason, it is no more than reasonably necessary to enable them to be administered or taken by phone or other audio link as well as audiovisual link.

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 16 April 2020.

This order is administered by the Ministry of Justice.