



COVID-19 Public Health Response (Alert Levels 3 and 2) Order (No 2) 2020

This order is made by the Minister of Health under section 11 of the COVID-19 Public Health Response Act 2020 in accordance with section 9 of that Act.

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Order

1 Title

This order is the COVID-19 Public Health Response (Alert Levels 3 and 2) Order (No 2) 2020.

2 Commencement

This order comes into force at 11.59 pm on 22 August 2020.

Part 1

Preliminary provisions

3 Purpose

The purpose of this order is to prevent, and limit the risk of, the outbreak or spread of COVID-19, and to otherwise support the purposes of the Act.

4 Interpretation

(1) In this order, unless the context otherwise requires,—

1-metre physical distancing rule means the requirement set out in clause 8(1)

2-metre physical distancing rule means the requirement set out in clause 8(2)

Act means the COVID-19 Public Health Response Act 2020

alert level 2 requirements, in relation to a business or service, means the requirements that apply to that business or service under clauses 9, 10, 11, and 23 to 28

alert level 3 area means the area within the boundaries of Auckland as determined by the Local Government (Auckland Boundaries) Determination 2010

alert level 3 requirements, in relation to a business or service, means the requirements that apply to that business or service under clauses 9 10, 11, and 18

businesses and services includes—

- (a) voluntary and not-for-profit services; and
- (b) both public sector and private sector businesses and services; and
- (c) businesses and services that provide space for other businesses and services to operate within (for example, shopping malls and marketplaces); and
- (d) businesses and services that provide facilities or venues for events or activities if people pay to attend the event or participate in the activities or pay to hire the facility or venue; and
- (e) the playing of sports professionally or semi-professionally

category A business or service means a business or service listed in Part 1 of Schedule 2

category B business means a business listed in Part 2 of Schedule 2

contact tracing record, in relation to a person entering a workplace, means—

- (a) the name of the person; and
- (b) the date on which and time at which the person entered the workplace; and
- (c) a telephone number that may be used to easily contact the person

controlled gathering means a gathering that meets all of the following requirements:

- (a) there are no more than 10 people at any one time at the gathering (including any celebrant, organiser, or other assistant); and
- (b) the gathering is for one of the following purposes:
 - (i) a funeral service;
 - (ii) a tangihanga;
 - (iii) a wedding or civil union service; and
- (c) the gathering is one at which no food or drink is served

customers and clients,—

- (a) in relation to an education entity, does not include students attending the education entity; but
- (b) otherwise includes any non-paying customer or client

defined space—

- (a) means any single indoor space or outdoor space (*see* subclause (2)); and

- (b) if there is more than 1 space in any premises, means a space described in paragraph (a) for which there are systems and processes in operation that ensure, to the greatest extent practicable, that persons using the space (other than workers) do not intermingle at a distance closer than 2 metres with other persons using, entering, or leaving the premises

education entity has the same meaning as in section 10(8) of the Education and Training Act 2020

electoral candidate means a candidate described in paragraph (a) or (b) of the definition of candidate in section 3(1) of the Electoral Act 1993

essential personal movement means movement permitted as essential personal movement under clause 15

extended bubble arrangement means an agreement by all of the residents (other than a person under 18 years) of 2 or more homes or places of residence to comply with clauses 14 and 15 of this order as if they were 1 home or place of residence for the purpose of keeping connections with family or whānau, enabling caregiving, or supporting persons living alone or otherwise isolated

fellow resident, in relation to any person (**person A**), means another person who resides at—

- (a) the same home or place of residence as person A; or
(b) another home or place of residence in relation to which person A has an extended bubble arrangement

gathering—

- (a) means people who are intermingling in a group; but
(b) does not include people who remain at least 2 metres away from each other to the greatest extent practicable

gathering of friends and whānau means a group of customers, clients, or other persons who confirm that they are, or whom it is otherwise reasonable to believe to be, a group of persons who all know each other and can identify each other for the purpose of contact tracing

health service has the same meaning as in section 5(1) of the Health Practitioners Competence Assurance Act 2003

high-risk person means a person who—

- (a) has been diagnosed as having COVID-19; or
(b) has COVID-19 symptoms; or
(c) is being or has been tested for COVID-19 and is awaiting a test result; or
(d) has been in close contact with someone with suspected, probable, or confirmed COVID-19 in the previous 14 days

home or place of residence—

- (a) includes a campervan, caravan, or other vehicle or temporary structure (for example, a tent) that is a place of residence; and
- (b) in the case of a building, includes the land that is part of the property on which the building is situated (other than any common areas); and
- (c) includes any prison, hospital, or other facility or place in which a person is detained or compulsorily placed under any enactment; and
- (d) in the case of a block of flats or other building that has more than 1 home or place of residence, excludes the other homes or places of residence

person in control, in relation to a defined space or premises,—

- (a) means a person who manages or controls the defined space or premises; and
- (b) includes—
 - (i) any occupier of the defined space or premises; and
 - (ii) if a facility or venue of a business or service is hired for an event or activity, that business or service

premises has the same meaning as in section 2(1) of the Health Act 1956 (which includes any commercial premises, private premises, vehicle, ship, or aircraft)

public transport service has the same meaning as in paragraph (a) of the definition of public transport service in section 5(1) of the Land Transport Management Act 2003 but—

- (a) includes air transport that is available to the public generally; and
- (b) excludes small passenger service vehicles (as defined in section 5(1) of that Act)

QR code means a unique identifying code issued by the Government for the purpose of enabling contact tracing

region means the area of the Civil Defence Emergency Management Group (under the Civil Defence Emergency Management Act 2002) of which the relevant territorial authority is a member and (to avoid doubt) includes an alert level 3 area

shared caregiver, in relation to a child, means a person who, under an agreement, or a parenting order or an interim parenting order made under the Care of Children Act 2004, has the role of providing the day-to-day care of the child

social gathering—

- (a) means people who are intermingling in a group; but
- (b) does not include—

- (i) people who remain at least 2 metres away from each other to the greatest extent practicable; or
- (ii) an activity undertaken at a business or service in compliance with the alert level 2 requirements; but
- (c) despite paragraph (b)(ii), includes a gathering held at a facility or venue of a business or service that has been hired for the gathering if the gathering is not for the purpose of a business or service

venue business means a business of providing a venue for gatherings (whether as the main or an ancillary part of the business)

vulnerable person means a person who is at significant risk of serious illness if the person contracts COVID-19

worker means, in relation to a business or service, any person who carries out work in any capacity for that business or service (whether paid or unpaid)

workplace—

- (a) means premises where work is being carried out, or is customarily carried out, for a business or service; and
 - (b) includes premises where a worker goes, or is likely to be, while at work.
- (2) For the purpose of the definition of **defined space** in subclause (1),—
- (a) an indoor space or outdoor space is a single space if there are walls (whether permanent or temporary) that substantially divide that space from other spaces:
 - (b) an outdoor space is also a single space if there is at least 2 metres away between all people in that space and any other people (outside that space).

5 How requirements apply to businesses and services

- (1) A reference in this order to a requirement applying to a business or service applies that requirement to the person who carries on that business or service.
- (2) A requirement for a particular activity applies to a business or service to the extent that the activity is carried out.
- (3) If more than 1 business or service operates in the same, or a shared, premises (for example, a shopping mall, a marketplace, or a cafe that operates in an office building), each of those businesses and services must comply with all of the requirements in this order to the extent that they apply to that business or service or its activities.

6 Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1 have effect according to their terms.

Part 2

Alert level requirements to prevent outbreak or spread of COVID-19 that apply in all areas

7 Application of this Part

This Part applies to the whole of New Zealand.

Physical distancing requirements

8 Meaning of 2-metre and 1-metre physical distancing rules

- (1) In this order, the **1-metre physical distancing rule**—
 - (a) requires that a person remain at least 1 metre away from any other person; but
 - (b) applies only in a workplace; and
 - (c) applies only if the 1-metre physical distancing rule (rather than the 2-metre physical distancing rule) applies to each person referred to in paragraph (a) (for example, both persons are workers); and
 - (d) does not apply to a person in relation to their fellow residents (in any alert level area) or to a gathering of friends and whānau in a workplace (in an area that is not an alert level 3 area).
- (2) In this order, the **2-metre physical distancing rule**—
 - (a) requires that a person remain 2 metres away from any other person; but
 - (b) does not apply to a person in relation to their fellow residents (in any alert level area) or to a gathering of friends and whānau in a workplace (in an area that is not an alert level 3 area).

9 Physical distancing requirements for workplaces

- (1) A business or service must have systems and processes in place to—
 - (a) maintain compliance with the 1-metre physical distancing rule (to the greatest extent practicable) for all workers in a workplace of, or while working for, the business or service; and
 - (b) maintain compliance with the 2-metre physical distancing rule (to the greatest extent practicable) for any other persons entering a workplace, or using the services, of the business or service; and
 - (c) mitigate the risks that arise to the extent that physical distancing is not fully maintained.
- (2) Subclause (1)(a) and (b) applies except as adjusted under any of clauses 18 and 23 to 28.
- (3) *See also* the general physical distancing requirements in clause 16 that apply to people in the alert level 3 area if they are not in a workplace.

- (4) A breach of subclause (1)(a), (b), or (c) is an infringement offence for the purposes of section 26(3) of the Act.

Contact tracing requirements

10 Display of QR codes and contact tracing

- (1) A person in control of a workplace must—
- (a) ensure that a copy of a QR code for the workplace is displayed in a prominent place at or near the main entrance (if any) of the workplace; and
 - (b) have other record-keeping systems and processes in place to enable the contact tracing of all persons entering the workplace.
- (2) However, there are additional requirements for contact tracing within the alert level 3 area for businesses and services (other than category A businesses and services, category B businesses, education entities, or public transport services) under clause 18.
- (3) In this clause, **workplace** does not include any vehicle, vessel, train, tram, ship, or aircraft.
- (4) A breach of subclause (1) is an infringement offence for the purposes of section 26(3) of the Act.

Restrictions on travel between alert level 3 area and other areas

11 Restrictions on travel between alert level 3 area and other areas

- (1) A person may go into the alert level 3 area from another area, or go out of the alert level 3 area into another area, only if—
- (a) that travel is for 1 or more of the purposes permitted under clause 12; and
 - (b) the person, to the greatest extent practicable, travels directly without stopping (except for a permitted airport transfer) while in the alert level 3 area.
- (2) For the purposes of subclause (1)(b), a **permitted airport transfer** is a stop by a person at an airport for the purpose of transferring to an aircraft to go to another place in New Zealand or outside New Zealand if—
- (a) the person does not leave the airport except to board a departing flight or to stay in temporary accommodation; and
 - (b) the person's departing flight is scheduled to depart within 24 hours after the person enters the airport.

12 Permitted purposes for travel between alert level 3 area and other areas

- (1) For the purposes of clause 11, a person is permitted to go into, or out of, the alert level 3 area (but not into, through, and out of the alert level 3 area in 1 trip) for 1 or more of the following purposes:

Going home

- (a) to go to the person's principal home or place of residence:

Working for certain businesses or services, including as an electoral candidate

- (b) to go to, return from, or carry out work for a business or service listed in Schedule 3 (and, if necessary, stay in no more than 1 place as temporary accommodation):
- (c) to carry out any activity associated with the person's role as an electoral candidate:

Care of children and others

- (d) if the person is a child, to go to, or return from, the home or place of residence of a shared caregiver (and then visit or stay), whether or not it is the child's principal home or place of residence:
- (e) if the person is a shared caregiver or fellow resident, to accompany a child going to, or returning from, the home or place of residence of a shared caregiver or to collect a child for that purpose:
- (f) to provide urgent care for a child or for the purpose of providing care or support to a person in a critical or terminal condition if no other appropriate person is able to provide that care or support in the area in which it is needed:

Accessing health services, courts, etc, with appointment or permission

- (g) to go to, and return from, an appointment with a health service:
- (h) to attend a court, tribunal, New Zealand Parole Board hearing, or other judicial institution that they are required or permitted to attend by that institution:

Relocating home or work premises, including on court order or after leaving managed facilities

- (i) to relocate their home or place of residence or business premises:
- (j) to leave or change the person's home or place of residence as required by a court order or any other power under any enactment to order a person to be detained, to change their place of detention, or otherwise determine their place of residence (for example, a direction of the New Zealand Parole Board or a probation officer), or to go to a home or place of residence after that detention or determination ceases:
- (k) in the case of a person who has arrived in New Zealand (and to whom the COVID-19 Public Health Response (Air Border) Order 2020 or the

COVID-19 Public Health Response (Maritime Border) Order 2020 does not apply or no longer applies), to go to the person's intended home or place of residence in New Zealand:

- (l) to collect a person referred to in paragraph (k) for the purpose of accompanying them to their intended home or place of residence in New Zealand:

Leaving New Zealand

- (m) if leaving New Zealand for another jurisdiction, to go to—
 - (i) an airport or port from which the person will leave New Zealand; or
 - (ii) any managed isolation or quarantine facility immediately before leaving New Zealand:

Emergencies

- (n) if it is necessary to preserve their own or any other person's life or safety:

Accompanying others

- (o) to accompany any person referred to in paragraphs (a) to (n).
- (2) For the purposes of clause 11, a person may go into, through, and out of the alert level 3 area (in 1 trip) for the purpose of going to, or returning from, work or going to the person's principal home or place of residence if—
 - (a) neither the place of departure nor the destination is in the alert level 3 area; and
 - (b) it is necessary to travel through the alert level 3 area for that purpose; and
 - (c) the person carries evidence of the purpose of their travel and the location of the place of departure and destination.
 - (3) The permissions in this clause do not apply to travel that takes place only within the alert level 3 area (to which clause 15 applies).

Part 3

Alert level 3 requirements to prevent outbreak or spread of COVID-19 in alert level 3 area

13 Application of this Part

This Part applies—

- (a) to the alert level 3 area; and
- (b) to any property if a part of it is in the alert level 3 area; and
- (c) to any other place if necessary for the purpose of enforcing the requirements in a place referred to in paragraph (a) or (b).

*Stay-at-home requirements***14 Stay-at-home requirements**

- (1) All persons within the alert level 3 area must—
 - (a) remain at their current home or place of residence, except for essential personal movement; and
 - (b) if their home or place of residence is mobile, keep that home or place of residence in the same general location, except to the extent that they would be permitted (if it were not mobile) to leave the home or place of residence as essential personal movement.
- (2) A breach of subclause (1)(a) or (b) is an infringement offence for the purposes of section 26(3) of the Act.

15 Permissions for essential personal movement within alert level 3 area

A person is permitted to do any of the following as **essential personal movement** within the alert level 3 area:

Accessing businesses or services within area

- (a) leave their home or place of residence for the purpose of accessing any business or service operating in compliance with the alert level 3 requirements if doing so for their own needs or on behalf of a fellow resident, a vulnerable person, or a high-risk person:

Attending education entities within area

- (b) leave their home or place of residence for the purpose of attending any education entity if permitted to do so by the entity in compliance with the alert level 3 requirements:

Working within area

- (c) leave their home or place of residence for the purpose of providing a business or service operating in compliance with the alert level 3 requirements (or to do necessary work at any premises under clause 17(2));
- (d) leave their home or place of residence for the purpose of working at an education entity operating in compliance with the alert level 3 requirements;
- (e) leave their home or place of residence to carry out any activity associated with the person's role as an electoral candidate:

Limited recreation purposes within area

- (f) leave their home or place of residence for the purpose of exercise or other recreation if—

- (i) it is done in an outdoor place appropriate for that kind of exercise or recreation that is readily accessible (including by using their vehicle) from their home or place of residence; and
- (ii) it is done in compliance with the requirements that relate to physical distancing (*see* clause 16) and the prohibition against gathering in outdoor spaces (*see* clause 19); and
- (iii) it does not involve flying manned aircraft, scuba-diving, hunting in motorised vehicles, or water-based activities involving sailing boats, motorised craft, or motorised equipment; and
- (iv) it does not involve any other activities that expose the participant to danger (taking account of their experience and abilities):

Limited customary purposes within area

- (g) leave their home or place of residence for the purpose of exercising Māori customary rights to fishing and food gathering if—
 - (i) it is done in an outdoor place appropriate for that kind of exercise or recreation that is readily accessible (including by using their vehicle) from their home or place of residence; and
 - (ii) it is done in compliance with the requirements that relate to physical distancing (*see* clause 16) and the prohibition against gathering in outdoor spaces (*see* clause 19); and
 - (iii) it does not involve flying manned aircraft, scuba-diving, hunting in motorised vehicles, or water-based activities involving sailing boats, motorised craft, or motorised equipment; and
 - (iv) it does not involve any other activities that expose the participant to danger (taking account of their experience and abilities):

Controlled gatherings within area

- (h) leave their home or place of residence for the purpose of attending a controlled gathering:

Extended bubble arrangements and shared caregiver arrangements within area

- (i) leave their home or place of residence for the purpose of visiting or staying at another home or place of residence (and then visit or stay) if those homes or places of residence have an extended bubble arrangement:
- (j) if the person is a child, leave the extended bubble arrangement of one shared caregiver for the purpose of visiting or staying at the extended bubble arrangement of another shared caregiver:

Relocating premises within area

- (k) relocate their home or place of residence or business premises, or leave their home or place of residence for the purpose of arranging or carrying

out the relocation (including for inspection of the property or a potential property):

Accessing health services, accessing courts, emergencies, court orders, etc, within area

- (l) leave their home or place of residence for the purpose of accessing health services:
- (m) leave their home or place of residence for the purpose of providing urgent care for a child or for the purpose of providing care or support to a person in a critical or terminal condition if no other appropriate person is able to provide that care or support in the area in which it is needed:
- (n) leave their home or place of residence for the purpose of visiting people in residential disability care (as defined in the Health and Disability Services (Safety) Act 2001) if permitted to do so by the care provider:
- (o) leave their home or place of residence to care for their pets or other animals:
- (p) leave their home or place of residence to attend a court, tribunal, New Zealand Parole Board hearing, or other judicial institution:
- (q) leave their home or place of residence if it is necessary to preserve their own or any other person's life or safety:
- (r) change their home or place of residence if necessary to use another temporary or emergency home or place of residence (for example, for care while sick or to seek refuge in women's refuge accommodation):
- (s) leave or change the person's home or place of residence as required by a court order or any other power under any enactment to order a person to be detained, to change their place of detention, or otherwise determine their place of residence (for example, a direction of the New Zealand Parole Board or a probation officer), or go to a home or place of residence after that detention or determination ceases:
- (t) in the case of a person who has arrived in New Zealand (and to whom the COVID-19 Public Health Response (Air Border) Order 2020 or the COVID-19 Public Health Response (Maritime Border) Order 2020 does not apply or no longer applies), go to the person's intended home or place of residence in the alert level 3 area:
- (u) leave their home or place of residence to collect a person referred to in paragraph (t) for the purpose of accompanying them to their intended home or place of residence in the alert level 3 area:

Leaving New Zealand

- (v) if leaving New Zealand for another jurisdiction, leave their home or place of residence to go to—

- (i) an airport or port from which the person will leave New Zealand;
or
- (ii) any managed isolation and quarantine facility immediately before leaving New Zealand:

For purposes of travelling between alert level 3 area and other areas if permitted by clause 11

- (w) leave their home or place of residence for the purpose of going into, or out of, the alert level 3 area for a purpose permitted by clause 11:

Assisting fellow resident

- (x) leave their home or place of residence to assist a fellow resident to carry out essential personal movement or to accompany a fellow resident carrying out essential personal movement, but only to the extent permitted for that fellow resident under this clause.

Physical distancing requirements for individuals

16 Physical distancing requirements for all individuals

- (1) All persons within the alert level 3 area must comply with the 2-metre physical distancing rule (to the greatest extent practicable).
- (2) However, if the 1-metre physical distancing rule applies to the person in a workplace under Part 2 or clause 18, the person must instead comply with that rule as so applied.
- (3) A breach of subclause (1) or (2) is an infringement offence for the purposes of section 26(3) of the Act.

Workplace requirements

17 Closure of premises unless alert level 3 requirements operating

- (1) A person in control of premises in the alert level 3 area must close those premises unless the person is carrying on a business or service that is operating in compliance with the alert level 3 requirements.
- (2) However,—
 - (a) this clause does not prevent a person from undertaking any necessary work in any premises for either of the following purposes:
 - (i) minimum basic operations required to—
 - (A) maintain the condition or value of, or clean, the premises, or any plant, equipment, or goods in the premises:
 - (B) care for animals:
 - (C) receive stock or freight:
 - (D) enable workers to work, or to continue to work, remotely from their homes or places of residence:

- (ii) to prepare the premises for opening (and to meet public health guidance); and
 - (b) this clause does not apply to any premises referred to in section 12(2)(c) or (d) of the Act.
- (3) A breach of subclause (1) is an infringement offence for the purposes of section 26(3) of the Act.

18 Additional and adjusted alert level 3 requirements for businesses and services

- (1) A business or service must operate in compliance with the following alert level 3 requirements, in addition to those set out in Part 2 (or, in the case of physical distancing rules, as adjusted from those set out in that Part):

Category A businesses or services

- (a) a category A business or service must have systems and processes in place to maintain compliance with the 1-metre physical distancing rule for all persons entering the workplace of, using the services of, or working for the business or service (rather than the 2-metre physical distancing rule) so far as is reasonably practicable taking into account the nature of the business or service:

Category B businesses

- (b) a category B business must have systems and processes in place to prevent food and drink from being served for consumption on the premises (unless the service is an accommodation service):

Education entities

- (c) an education entity must have systems and processes in place to—
 - (i) maintain compliance with the 1-metre physical distancing rule for all persons entering the workplace of, using the services of, or working for the business or service (rather than the 2-metre physical distancing rule) so far as is reasonably practicable taking into account the nature of the education entity; and
 - (ii) keep children, students, and teachers, to the extent reasonably practicable, in groups that are appropriately sized and stable; and
 - (iii) for schools, limit students' physical attendance to students in years 1 to 10 and, for other students, as otherwise permitted by any direction given by the chief executive of the Ministry of Education under Schedule 25 of the Education and Training Act 2020:

Public transport services

- (d) a public transport service must have systems and processes in place to maintain compliance with the 1-metre physical distancing rule for all persons entering the workplace of, using the services of, or working for the business or service (rather than the 2-metre physical distancing rule)

so far as is reasonably practicable taking into account the nature of the service:

Venue businesses

- (e) a venue business must have systems and processes in place to ensure that—
 - (i) the venue workplace is used only for the purpose of a controlled gathering; and
 - (ii) to the greatest extent practicable, each person who enters the workplace—
 - (A) scans the QR code for the workplace; or
 - (B) provides details in a contact tracing record that the person in control of the workplace collects:

All other businesses and services

- (f) all businesses and services other than those referred to in paragraphs (a) to (e) must have systems and processes in place to ensure that—
 - (i) no customers or clients enter the workplace (other than only, and then to the minimum extent necessary, to collect goods through a method that minimises physical contact and does not involve entering a building); and
 - (ii) there is no close personal contact with or between customers or clients; and
 - (iii) to the greatest extent practicable, each person who enters the workplace—
 - (A) scans the QR code for the workplace; or
 - (B) provides details in a contact tracing record that the person in control of the workplace collects.
- (2) If subclause (1)(e)(ii) or (f)(iii) applies,—
 - (a) the person in control of the workplace must keep the record collected under that subclause for a period of 30 days; and
 - (b) **workplace**, for that purpose and for that subclause, does not include any vehicle, vessel, train, tram, ship, or aircraft.
 - (3) A breach of subclause (1) or (2) is an infringement offence for the purposes of section 26(3) of the Act.

Prohibition on gatherings in outdoor places

19 Prohibition on gathering in outdoor places

- (1) A person must not participate in a gathering in any outdoor place in an alert level 3 area.

- (2) A person must not organise a gathering in any outdoor place in an alert level 3 area.
- (3) This clause does not apply to—
 - (a) a gathering of fellow residents; or
 - (b) a gathering organised by a venue business operating in compliance with the alert level 3 requirements.
- (4) A breach of subclause (2) is an infringement offence for the purposes of section 26(3) of the Act.

Part 4

Alert level 2 requirements to prevent outbreak or spread of COVID-19 in other areas

20 Application of this Part

This Part applies to all areas of New Zealand except to the extent that Part 3 applies.

21 When workplace alert level 2 requirements do not apply (and social gathering rules apply instead)

- (1) The alert level 2 requirements in clauses 22 to 28 do not apply to the following activities (but *see* the requirements for social gatherings in clauses 29 to 31):
 - (a) voluntary or not-for-profit sporting, recreational, social, or cultural activities; or
 - (b) households carrying out family activities in their household unit; or
 - (c) faith-based gatherings; or
 - (d) community club activities (except activities that occur at the same time and place as services provided under a club licence under section 21 of the Sale and Supply of Alcohol Act 2012).
- (2) In addition, if a facility or venue of a business or service is hired for a social gathering, the business or service must comply with the requirements for social gatherings in clauses 30 and 31 (instead of the alert level 2 requirements in clauses 22 to 28).

Workplace requirements

22 Individuals must comply with alert level 2 requirements for workplaces

- (1) A person (**person A**) who enters a workplace of, uses the services of, or works for a business or service must comply with—
 - (a) either—
 - (i) the 2-metre physical distancing rule (to the greatest extent practicable); or

- (ii) the 1-metre physical distancing rule to the extent that that rule applies to the person (rather than the 2-metre physical distancing rule) under clause 9 and clauses 26 to 28; and
 - (b) the requirement in clause 27(2)(b) to ensure that each customer or client is seated at a table when that rule applies under clause 27.
- (2) A breach of subclause (1) is an infringement offence for the purposes of section 26(3) of the Act.

23 Adjusted alert level 2 requirements for category A businesses and services

- (1) This clause adjusts the alert level 2 requirements for category A businesses and services.
- (2) The businesses and services must maintain compliance with the 1-metre physical distancing rule for all persons entering the workplace of, using the services of, or working for the business or service (rather than the 2-metre physical distancing rule) so far as is reasonably practicable taking into account the nature of the business or service.
- (3) A breach of subclause (2) is an infringement offence for the purposes of section 26(3) of the Act.

24 Adjusted alert level 2 requirements for education entities

- (1) This clause adjusts the alert level 2 requirements for education entities.
- (2) Education entities—
 - (a) need not maintain compliance with either the 1-metre physical distancing rule or the 2-metre physical distancing rule for people who are at the education entity for the purposes of receiving or providing, or assisting in or supporting the receipt or provision of, education services; but
 - (b) must have systems and processes in place to mitigate the risks that arise to the extent that compliance with the physical distancing requirements in this order that would otherwise apply to the workplace or service is not fully maintained.
- (3) The exclusion in subclause (2) does not apply to—
 - (a) inter-school activities; or
 - (b) activities at (or connected with) an education entity that are attended by people who are otherwise not ordinarily at that education entity for the purposes of receiving or providing, or assisting in or supporting the receipt or provision of, education services.
- (4) A breach of subclause (2) is an infringement offence for the purposes of section 26(3) of the Act.

25 Adjusted alert level 2 requirements for public transport services

- (1) This clause adjusts the alert level 2 requirements for public transport services.

- (2) Public transport services need not maintain compliance with either the 1-metre physical distancing rule or the 2-metre physical distancing rule for people using those services.

26 Additional and adjusted alert level 2 requirements for controlled-access businesses and services

- (1) This clause adjusts and adds to the alert level 2 requirements for controlled-access businesses and services.
- (2) In this clause, **controlled-access businesses and services**—
- (a) means the following businesses and services:
 - (i) businesses and services to the extent that they largely have a consistent group of workers and usually have a fixed workplace, such as office workplaces and factories; and
 - (ii) businesses and services to the extent that their customers or clients are members of the business or service, such as gyms; and
 - (iii) public facilities that are located within a building or structure, such as swimming pools, libraries, and museums; and
 - (iv) event facilities such as cinemas, theatres, stadiums, concert venues, conference venues, and casinos; and
 - (v) businesses and services to the extent to which clauses 27 and 28 apply to them (despite paragraph (b)); but
 - (b) excludes retail businesses, such as shopping malls, supermarkets, marketplaces, takeaway-food stores, and retail stores.
- (3) The controlled-access businesses and services must—
- (a) maintain compliance with the 1-metre physical distancing rule for all persons entering the workplace of, using the services of, or working for the business or service (rather than the 2-metre physical distancing rule) to the greatest extent practicable; and
 - (b) if they are an event facility of the kind described in subclause (2)(a)(iv), permit no more than 100 customers or clients to be in any 1 defined space in the facility at any 1 time (not including workers).
- (4) A breach of subclause (3) is an infringement offence for the purposes of section 26(3) of the Act.

27 Additional and adjusted alert level 2 requirements for food and drink businesses and services

- (1) This clause adds to and adjusts the alert level 2 requirements for a business or service to the extent that customers or clients enter its workplace and food or drink is sold or provided for consumption (or offered for consumption) to those customers or clients in that workplace, such as—
- (a) a restaurant or cafe; or

- (b) a soup kitchen or other place where food or drink is provided without charge.
- (2) Businesses and services must, in relation to that activity,—
 - (a) permit no more than 100 customers or clients to be in any 1 defined space in the workplace at any 1 time; and
 - (b) ensure that each customer or client is seated at a table other than when—
 - (i) entering, using a toilet or bathroom, paying, or departing; or
 - (ii) ordering or collecting food and drink, except in on-licence premises or club licence premises; and
 - (c) ensure that there is at least a 1-metre separation between adjacent tables where customers or clients are seated; and
 - (d) ensure, to the greatest extent practicable, that only 1 worker serves at any table; and
 - (e) maintain compliance with the 1-metre physical distancing rule for all customers and clients when they are not seated at a table (rather than the 2-metre physical distancing rule) to the greatest extent practicable.
- (3) Nothing in this clause applies to—
 - (a) accommodation services selling or providing food or drink for residents (including room service);
 - (b) businesses or services providing food or drink to their workers;
 - (c) vending machines that are located and used within a workplace;
 - (d) cinemas or theatres selling food or drink to customers or clients when they are seated inside the cinema or theatre.
- (4) A breach of subclause (2) is an infringement offence for the purposes of section 26(3) of the Act.

28 Adjusted alert level 2 requirements for close proximity businesses and services

- (1) This clause adjusts the alert level 2 requirements for a business or service to the extent that it cannot operate without physical contact, or close proximity, between people (for example, massage and hairdressing services or professional or semi-professional sports).
- (2) Businesses and services must, in relation to that activity, maintain compliance with the 1-metre physical distancing rule for all persons entering the workplace of, using the services of, or working for the business or service (rather than the 2-metre physical distancing rule) to the greatest extent practicable.
- (3) However, subclause (2) does not apply to the extent that workers are required to have physical contact with, or close proximity to, people in order to carry out the activities of that business or service.

- (4) A breach of subclause (2) is an infringement offence for the purposes of section 26(3) of the Act.

Social gathering requirements

29 Individuals must comply with requirements for social gatherings

- (1) A person—
- (a) must not participate in a social gathering that exceeds the number limit in clause 30(1); and
 - (b) must, if participating in a social gathering, comply with the requirements in clause 31 to enable contact tracing records to be kept.
- (2) However, nothing in this Part prevents people from residing together in their home or place of residence.

30 Number limits for social gatherings

- (1) A social gathering that exceeds 100 people in a defined space at any one time (the **number limit**) is prohibited.
- (2) An organiser of a social gathering must ensure that the social gathering does not exceed, and is not likely to exceed, the number limit.
- (3) A person in control of any premises, or of any defined space in any premises, in which a social gathering is held must ensure that the social gathering does not exceed, and is not likely to exceed, the number limit.
- (4) Workers who are providing services in relation to a social gathering are not to be counted as part of the number limit.
- (5) A breach of subclause (2) or (3) is an infringement offence for the purposes of section 26(3) of the Act.

31 Record-keeping requirements to enable contact tracing

- (1) A social gathering in which the requirements in subclause (2) are not met is prohibited.
- (2) The organiser of a social gathering, and the person in control of the defined space or premises in which a social gathering is held, must ensure that at least one of the following people keeps contact tracing records to enable contact tracing in relation to the social gathering:
- (a) the organiser of the social gathering;
 - (b) the person in control of the defined space or premises where the gathering is held;
 - (c) a participant in the social gathering.
- (3) Subclause (2) does not apply if every person at the social gathering knows, and can identify for the purposes of contact tracing, every other person who is a participant in the social gathering.

- (4) A breach of subclause (2) is an infringement offence for the purposes of section 26(3) of the Act.

Part 5

Miscellaneous

Exemptions

32 Exemption for emergencies

Nothing in this order prevents any person from assisting in, or responding to, an emergency.

33 Other exemptions from this order

Nothing in this order applies—

- (a) to border services provided by Immigration New Zealand, the New Zealand Customs Service, Maritime New Zealand, or the Ministry for Primary Industries:
- (b) to the provision of health services:
- (c) to people using a service for the carriage of passengers for hire or reward that is contracted or funded by the Ministry of Education, local authorities, or Auckland Transport for the sole or primary purpose of transporting children to and from school:
- (d) to residential centres (including care and protection and youth justice residences), family homes, and group homes (including family group homes and community-based remand centres) that are approved or recognised for the time being by the chief executive of Oranga Tamariki as a place of care or treatment for the purposes of the Oranga Tamariki Act 1989:
- (e) within a corrections prison as defined in section 3(1) of the Corrections Act 2004 or any premises managed by or on behalf of the Department of Corrections:
- (f) to custodial or detention services managed by the New Zealand Police, the Department of Corrections, or the Ministry of Justice, or within a courthouse:
- (g) to the administration of sentences and orders by the Department of Corrections or on its behalf:
- (h) to people being transported for the purposes of the Department of Corrections and New Zealand Police fulfilling their purposes and performing their functions and duties:
- (i) to the New Zealand Parole Board:
- (j) to the New Zealand Security Intelligence Service:

- (k) to the Government Communications Security Bureau:
- (l) to the New Zealand Defence Force:
- (m) to the New Zealand Police:
- (n) to Fire and Emergency New Zealand:
- (o) to civil defence emergency management services provided by the National Emergency Management Agency and Civil Defence Emergency Management Groups:
- (p) to workers of any business or service referred to in any of paragraphs (a) to (o):
- (q) to people in respect of whom either of the following applies:
 - (i) the COVID-19 Public Health Response (Air Border) Order 2020:
 - (ii) the COVID-19 Public Health Response (Maritime Border) Order 2020:
- (r) to people who are enforcement officers carrying out their functions and powers under the Act.

34 Power for Director-General to grant exemptions from this order

- (1) The Director-General may exempt any class of persons, businesses, services, or goods (or person, business, or service) from the application of any provision of this order or from the requirement to comply with any provision of this order if the Director-General is satisfied that—
 - (a) the exemption is necessary or desirable in order to promote the purposes of the Act or the purposes of this order; and
 - (b) the extent of the exemption is not broader than is reasonably necessary to address the matters that gave rise to the exemption.
- (2) The Director-General may impose conditions on the exemption as the Director-General considers necessary.
- (3) An exemption for any class of persons, businesses, services, or goods must—
 - (a) be published on a publicly accessible Internet site maintained by or on behalf of the New Zealand Government; and
 - (b) be notified in the *Gazette*.

Revocation

35 Revocation

The COVID-19 Public Health Response (Alert Levels 3 and 2) Order 2020 (LI 2020/187) is revoked.

Schedule 1

Transitional, savings, and related provisions

cl 6

Part 1

Provisions relating to this order as made

1 Interpretation

In this Part, **commencement** means 11.59 pm on 22 August 2020.

2 Existing exemptions

An exemption granted by the Director-General under clause 27 of the COVID-19 Public Health Response (Alert Levels 3 and 2) Order 2020 that is in force immediately before commencement continues in force on and after commencement as if it had been made under clause 34 of this order, and is subject to the same conditions (if any) as applied before commencement.

Schedule 2

Businesses and services

cl 4(1)

Part 1

Category A businesses or services

Number	Business or service
1	Transport services provided by any small passenger service vehicle, rental car services, or car share services
2	Veterinary services and animal health and welfare services
3	Services provided under the Oranga Tamariki Act 1989, and other social services provided to support persons to maintain critical well-being and as crisis support for people who are unsafe or homeless:
4	Courts and tribunals

Part 2

Category B businesses

Number	Business or service
1	Supermarkets and dairies
2	Petrol stations, including any stores operating as part of the petrol station
3	Pharmacies
4	Accommodation services
5	Licensing trusts
6	Hardware and DIY stores, but only for the purpose of sale to trade customers

Schedule 3

Businesses or services for which inter-regional travel permitted for work purposes

cl 12(1)(b)

Number	Business or service
1	Justice sector, including Courts of New Zealand, Corrections facilities and related services, and tribunals (but note that this list does not affect the exclusion from the closure of premises in clause 17(2)(b))
2	Parliament, including members of Parliament, parliamentary staff, and any officer of Parliament (but note that this list does not affect the exclusion from the closure of premises in clause 17(2)(b))
3	Postal operators and courier services
4	Transport and logistics services provided at or through an aerodrome, passenger or freight aviation services, passenger or freight shipping services, passenger or freight road services, rail freight services, public transport services (under contract with a local authority), small passenger vehicle services, and waste services
5	Waka Kotahi NZ Transport Agency, Civil Aviation Authority of New Zealand (including the Aviation Security Service), Airways Corporation of New Zealand Limited, Maritime New Zealand (including the Rescue Coordination Centre), KiwiRail Holdings Limited (including Interislander), Transport Accident Investigation Commission, and any entity or service provider that is contracted by these entities
6	The following services in relation to critical infrastructure (which is the key utilities as described in item 9 and other infrastructure whose operations, if interrupted, would be seriously impacted): <ul style="list-style-type: none"> • building and construction services: • services relating to urgent maintenance
7	Building, construction, and maintenance services required— <ul style="list-style-type: none"> • to address immediate risks to health and safety: • for road and rail networks
8	Scientific services (including research organisations) of the following kind or provided by the following entities or facilities: <ul style="list-style-type: none"> • ESR, GNS, GeoNet, NIWA, MetService: • services involved in COVID-19 response, including laboratories and Physical Containment level 3 (PC3) facilities: • services involved in hazard monitoring and resilience: • services involved in diagnostics for critical businesses or services like biosecurity, food safety, or public health: • other significant research facilities including animal facilities, clinical trials and infrastructure that requires constant attention (eg samples, collections and storage facilities) that are important to New Zealand
9	Utilities and communications of the following kinds or provided by the following entities: <ul style="list-style-type: none"> • the production, supply, sale, distribution or disposal of electricity, gas, water, wastewater (for example, sanitation), waste (for example, rubbish collection and recycling), liquid and solid fuel, telecommunication services, and connectivity devices (key utilities): • news (including news production) and broadcast media, including delivery of daily newspapers and non-daily newspapers for communities that are hard to reach due to physical location and with limited access to digital connectivity, or for non-English-language material audiences:

Number	Business or service
	<ul style="list-style-type: none">Internet service providers
10	Emergency services, excluding Fire and Emergency New Zealand
11	Movement required to support and deliver robust managed isolation and quarantine services, including movement between ports and managed isolation and quarantine facilities
12	Electoral Commission
13	Services provided under the Oranga Tamariki Act 1989, and other social services provided to support persons to maintain critical well-being and as crisis support for people who are unsafe or homeless
14	Diplomatic and consular services

Dated at Wellington this 20th day of August 2020.

Hon Chris Hipkins,
Minister of Health.

Explanatory note

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

This order, which comes into force at 11.59 pm on 22 August 2020, is made under the COVID-19 Public Health Response Act 2020.

This order (the **new order**) replaces the COVID-19 Public Health Response (Alert Levels 3 and 2) Order 2020 (the **existing order**). The new order is very similar to the existing order but has a clearer structure and includes some changes to make it more workable for businesses and service providers, particularly in relation to movement across the boundary between the alert level 3 area and other areas.

The key changes in the new order are as follows:

- the restrictions on travel between the alert level 3 area and an alert level 2 area are more flexible so that persons who may travel across the boundary now include—
 - workers of businesses and services operating across the areas:
 - children in shared care arrangements and persons accompanying those children:
 - persons who have an appointment with a health service:
 - persons permitted or required to attend a court, tribunal, or New Zealand Parole Board hearing:
 - persons relocating their home or place of residence or business premises:

- persons travelling through the alert level 3 area as directly as practicable, and without stopping, to go to, or return from, home or work:
- persons accessing Auckland airport to depart within 24 hours on a flight, who may not leave the airport except to stay in temporary accommodation:
(see clauses 11 and 12)
- the essential personal movement within the alert level 3 area will allow the following persons to travel within the alert level 3 area:
 - electoral candidates to carry out electoral activities:
 - permitted visitors to residents in residential disability care:
(see clause 15(e) and (n))
- education entities in the alert level 3 area may have systems and processes in place to permit the physical attendance of senior students in accordance with any direction given by the chief executive of the Ministry of Education:
(see clause 18(1)(c)(iii))
- further inter-regional movement is permitted for critical infrastructure and services, including—
 - services provided by specified transport entities:
 - building and construction services:
 - scientific services:
 - utilities and communications:
 - emergency services:
 - electoral services provided by the Electoral Commission:
 - social services provided under the Oranga Tamariki Act 1989:
 - diplomatic and consular services:
(see Schedule 3)
- exemptions for the following businesses and services have been added or extended:
 - border services:
 - civil defence emergency management services:
 - the New Zealand Parole Board:
 - the intelligence agencies:
 - workers of exempt businesses and services:
 - persons in isolation or quarantine facilities:
 - enforcement officers:
(see clause 33)

- an exemption from the order granted by the Director-General of Health to any individual or specific business or service is no longer required to be published, only exemptions for any class of persons, businesses, or services:
(see clause 34(3)).

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 20 August 2020.
This order is administered by the Ministry of Health.