

COVID-19 Public Health Response Amendment Act (No 2) 2021

November 2021

Fact Sheet 4: Improving COVID-19 Orders

Previous state

The COVID-19 Public Health Response Act currently empowers the Minister for COVID-19 Response to make orders to 'prevent the risk' of the outbreak or spread of COVID-19. This system has generally worked well to date, but can be improved based on what we have learnt since 2020.

Some of the Orders made under the Act during the pandemic are:

- [Alert Level Requirements Order](#), which sets the Alert Level from 1-4 and contains requirements for travel, displaying QR Codes, wearing face coverings, etc.
- [Air](#) and [Maritime](#) Border Orders, which impose requirements on people arriving in New Zealand by air or sea (e.g. obligations around medical examination and testing, and requirements to commence isolation and quarantine).
- [Isolation and Quarantine Order](#), which contains the requirements for people who must be isolated or quarantined.
- [Required Testing Order](#), tells people working at the border if and when they are required to be tested for COVID-19.
- [Border Worker Vaccinations Order](#), sets out which border worker roles must be filled by vaccinated workers.

What has changed?

These Orders are not changing, they will stay in effect and continue to be enforced. This Bill will amend the Act that allows the Orders to be made.

The wording of section 11 in the Act limits the purpose for which Orders can be made to matters that would 'prevent the risk' of the outbreak or spread of COVID-19. This may not seem like a problem, however it is anticipated that in the future COVID-19 Orders may be needed for the ongoing management and mitigation of COVID-19 rather than just for its prevention (e.g. to ensure the Government can respond to new global norms regarding vaccination and travel).

To ensure the Act is fit for purpose and the necessary Orders can be made by the Minister when required, the purposes for which an Order can be made will be expanded. The Bill proposes words such as 'contain', 'reduce', 'control', 'manage' and 'eliminate' be included as additional purposes for which COVID-19 Orders may be made. Orders can also be made for the purpose of "avoiding, mitigating, or remedying the actual or potential adverse public health effects of the outbreak of COVID-19 (whether direct or indirect)".

These words are aligned with the Reconnecting New Zealand work.

COVID-19

There are also some technical improvements that need to be made to strengthen the Act and to clarify a number of terms used in it. These changes will:

- fix the repetitious and confusing use of the word 'things' in sections 11 and 12 of the Act;
- extend the definition of 'things' that may be regulated by Orders to expressly include 'goods' and other terms;
- enable material to be incorporated by reference so that the Orders remain up to date;
- provide more flexibility for sub-delegation in relation to Orders; and
- remove the limitation that urgent orders apply only to a single territorial authority's boundary, and to allow for an boundary to be defined in the most pragmatic way.

How will this impact you?

These changes will not have any direct impact on New Zealanders today. However, future Orders under section 11 made using these changes may impose obligations or requirements on individuals to ensure the Government can effectively manage and suppress COVID-19 and progress plans for reconnecting New Zealand. Expanding the purposes for issuing an Order will allow the Government to respond more quickly and effectively to issues caused by COVID-19.

The technical changes will provide legal clarity and increased flexibility, they are not substantive amendments. The impact on the public will be minimal but they will enable the Government to be more agile in its response. The change to alert level boundary definitions will be especially useful in improving efficiency and consistency regarding regional lockdowns.

Want to know more?

For further information about the COVID-19 Public Health Response Amendment Bill visit the Ministry of Health [website](#).

Read the [Regulatory Impact Statement](#).