



Briefing

ALERT LEVEL REQUIREMENTS AMENDMENT ORDER FOR SIGNING

To Minister for COVID-19 Response (Hon Chris Hipkins)			
Date	28/09/2021	Priority	URGENT
Deadline	28/09/2021	Briefing Number	DPMC-2021/22-444

Purpose


Attached to this briefing is the proposed COVID-19 Public Health Response (Alert Level Requirements) Order (No 12) Amendment Order (No 2) 2021, which we recommend that you sign. This order makes some amendments to the current Alert Level settings relating to the display of QR codes and enables additional personal movement between Alert Level areas.


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

Recommendations

1. **Note** that this briefing provides a summary of the key provisions of the proposed order.
2. **Note** that the necessary procedural requirements for the making of COVID-19 Orders have been complied with.
3. **Sign** the COVID-19 Public Health Response (Alert Level Requirements) Order (No 12) Amendment Order (No 2) 2021 (**Attachment A**).

YES / NO

 Ben White Manager, Strategy and Policy COVID-19 Group, DPMC
28/09/21/...../.....

 Hon Chris Hipkins Minister for COVID-9 Response
28/9/2021/...../.....

Contact for telephone discussion if required:

Name	Position	Telephone	1st contact
Ben White	Manager, Strategy and Policy, COVID-19 Group, DPMC	s9(2)(a)	
Jessica 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- Withdrawn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 AMENDMENT ORDER FOR SIGNING

Summary of the Amendments

Further requirements with regard to the display of QR Codes

1. You have agreed that the Order should be amended to further specify the location, quality and quantity of QR code posters [DPMC-2021/22-88 refers]. This Amendment Order achieves that policy intent by requiring that businesses and public transport services ensure that:
 - additional copies (other than the one already required to be displayed in the main entranceway) of QR codes are displayed elsewhere;
 - displayed QR code posters are in a condition that enables the QR code to be scanned for the purpose of enabling contact tracing; and
 - displayed QR code posters are not altered in such a way that it makes it unclear that the QR code was issued by the NZ Government for the purposes of contact tracing.
2. In consultation with the Ministry of Justice, we have determined that first two of these additional requirements will not give rise to infringement offences (though failure to comply with a COVID-19 Order is always a non-infringement offence). It will remain an infringement offence to fail to comply with the existing requirement to display a QR code at the main entranceway of a workplace. Altering displayed copies of the QR code posters will also be an infringement offence.
3. These additional requirements will come into force from 11:59pm 5 October 2021, in order to allow affected PCBUs to prepare for the changes.

Create new categories for permitted movement between Alert Level areas

4. As discussed at Cabinet on 27 September 2021, Ministers want to expand the categories of personal movement between Alert Level areas to include those returning to their principal place of residence, changing places of residence (having purchased or rented a new property), starting a new job, travelling to a tertiary education residence or for the purposes of a shared caregiving arrangement.
5. The Amendment Order creates these additional permissions and applies the following testing requirements to those travelling pursuant to the respective permissions:
 - a) Shared caregiving arrangements – evidence of having had a COVID-19 test administered no more than 7 days before their journey began.
 - b) Going home - a negative result from a COVID-19 test administered no more than 72 hours before their journey began.
 - c) Relocating home (including for new employment, attending tertiary education, and purchasing or renting a new principal home or place of residence) – a negative result from a COVID-19 test administered no more than 72 hours before their journey began.

- d) Collecting a person for the purposes of shared caregiving, going home or relocating home – same testing requirement as the permissions above.

Procedural Requirements for a COVID-19 Order

6. This proposed Order amends a COVID-19 Order, which you can do pursuant to sections 11 and 15 of 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

7. 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.
8. The additional requirements relating to the display of QR codes do not come into effect for seven days, and so the 48-hour period will be observed. The amendments relating to travel permissions are an overall relaxing of existing restrictions and do not require the observance of the 48-hour notice period.

Ministerial Consultation

9. 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.
10. The additional requirements relating to the display of QR codes was canvassed in the briefing DPMC-2021/22-88. We understand that you consulted with the specified Ministers in accordance with recommendation 8 of that briefing. The amendments relating to travel permissions were discussed at Cabinet on 27 September 2021. Accordingly, we understand that the required consultation has been completed.

Public Health Advice

11. 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.
12. The additional requirements relating to the display of QR codes was canvassed in the briefing DPMC-2021/22-88, into which the Ministry of Health provided input. The amendments relating to travel were broadly recommended by the Director-General of Health (Health Report 2021-2114 refers). Accordingly, the adjusted Alert Level settings given effect by these amendments are consistent with the Director-General's advice about the settings appropriate to the present situation.

New Zealand Bill of Rights Act 1990

13. 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). The Act requires that you are satisfied that a COVID-19 order does not limit, or is a justified limit on, the rights and freedoms in NZBORA.

14. s9(2)(h)



Attachments:	
Attachment A:	COVID-19 Public Health Response (Alert Level Requirements) Order (No 12) Amendment Order (No 2) 2021 (Signature Copy)

Proactively Released

Proactively Released