

Hi Erin and Morehu,

As discussed, could you please ensure that the following is provided to the Minister together with this evening's Amendment Order. The order has been provided to you directly from PCO.

High Level Summary of the Amendment Order

Care of Children of AL4 Workers

Cl 16(ia) refers to "shared bubble arrangements" in the context of childcare arrangements. However, what is meant by that term in this context is not entirely consistent with the definition of that term in the order. Accordingly, this clause will be clarified so that it instead applies in respect of AL4 business and services workers who have to leave their home or place of residence to work and have no fellow resident nor anyone in a shared bubble arrangement who is able to provide childcare. It will then require the carer to provide care to no other person and to act as if they are in a shared bubble arrangement with the person for whom they are providing care.

Additionally, this clause will also be amended to apply in reverse – i.e. also allowing the person who requires childcare to travel to the home of the childcare provider in order to drop off and pick up their children.

These amendments allow childcare arrangements to be achieved both within families, and using arrangements such as the Ministry of Education's Emergency Childcare Scheme, which we are advised was approved by Cabinet this morning. However, it would require the use of only one childcare provider per bubble/shared bubble and would require all parties to act as if they were in a shared bubble arrangement with the others.

Licensing trusts

The order amends this item in the list of AL4 Business and Services to clarify that only the off-license bottle store functions of licensing trusts are included. This prevents licensing trusts operating on-license services.

Uncooked food delivery services and cooked food delivery services

The order amends this item in the list of AL4 Business and Services to clarify that there is a distinction between:

1. Uncooked food delivery services (which is uncaveated); and
2. Cooked food delivery services, which is subject to the caveat that the services must be referred by the Ministry of Social Development, a District Health Board or the Accident Compensation Corporation (for example, Meals on Wheels)

The amendment also clarifies that bakeries and suppliers of alcohol are included within the "uncooked food delivery services" category.

Essential non-food consumer products

This amendment brings the order into line with the MBIE Guidance that was published yesterday and approved by Ministers last night.

Businesses or services necessary to maintain other alert level 4 businesses or services

The order amends this item in the list of AL4 Business and Services to include both alert level 4 businesses or services, *and other exempt businesses and services*. This amendment corrects an oversight, which meant that there was no equivalent to the existing provision to allow for business or services to operate in support of exempted Services under cl 23 (for example, the Parliamentary Counsel Office operating in support of Parliament).

Unions

The order amends the list of AL4 Business and Services to include an additional item to cover unions, where reasonably necessary to enable the union to provide a service and the service cannot reasonably be delayed (for example, because a delay would risk the health and safety of workers). This appears to have been an oversight for inclusion in this order, and is consistent with previous alert level 3 and 4 settings.

48 Hour Notification Period

The COVID-19 Public Health Response Act 2020 (the Act) requires that a COVID-19 order must be published a gazetted at least 48 hours before it comes into force. However, this notice period is not required to be observed where the Minister is 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.

In this instance, amendments to the order either clarify existing settings, are a reduction of otherwise applicable requirements, or are urgently required in order to deal with the outbreak. Accordingly, we consider that the 48-hour notice period need not be observed in this case.

Consultation

The Act requires that before making a COVID-19 order, you consult with the Prime Minister, the Minister of Justice, and the Minister of Health.

Your office kindly facilitated consultation with the relevant Minister's offices on the basis of a summary of the amendments earlier today. Accordingly, this requirement has been complied with.

Public Health Advice

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.

These amendments are consistent with public health advice that has been provided previously or otherwise clarify the settings upon which public health advice has already been given. The Ministry of Health has provided specific advice on the amendment to clause 16 for the purposes of childcare, and confirms that this amendment is consistent with their public health advice with regard to AL4 settings. Accordingly, we advise that you have received sufficient advice on these matters so as to be able to have regard to the Director General's advice on Alert Level four settings generally, as required.

New Zealand Bill of Rights Act 1990

A matter for you to consider each time an order is proposed is whether the exercise of such powers will be appropriate. 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).

s9(2)(h)



Proactively Released

s9(2)(h)



Proactively Released