



# Briefing

## COVID-19 PUBLIC HEALTH RESPONSE (ALERT LEVEL REQUIREMENTS) ORDER (NO 12) AMENDMENT ORDER (NO 7) 2021 FOR SIGNING

To: Hon Chris Hipkins  
Minister for COVID-19 Response

Date	15/10/2021	Priority	[URGENT]
Deadline	15/10/2021	Briefing Number	DPMC-2021/22-590

### Purpose

Attached to this briefing is the proposed COVID-19 Public Health Response (Alert Level Requirements) Order (No 12) Amendment Order 2021, which we recommend that you sign. This order makes various amendments to the current Alert Level 3 and Alert Level boundary settings.


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 brief 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 7) 2021 (Attachment A)

**YES** NO

  
 Ruth Fairhall  
**Head of Strategy & Policy  
 COVID-19 Group, DPMC**

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15 / 10 / 21  
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 Hon Chris Hipkins  
**Minister for COVID-9 Response**

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15 / 10 / 2021  
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**Contact for telephone discussion if required:**

Name	Position	Telephone	1st contact
Ruth Fairhall	Head of Strategy & Policy COVID-19 Group, DPMC	s9(2)(a)	
Jess 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- Withdrawn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

# ALERT LEVEL REQUIREMENTS AMENDMENT ORDER FOR SIGNING

## Summary of the Amendments

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### *Amending the permitted travel into, out of, or through the Alert Level areas*

1. The Order was recently clarified and expanded to allow people to travel across the AL3/2 boundary to relocate their permanent home, in both directions. This has caused an increase in the number of people seeking to relocate across the boundary. Use of moving companies is permitted *within* AL3 and within AL2. Currently only freight companies are permitted to be used to relocate homes *between* Alert Level Areas. This Amendment Order permits workers of a property relocation service to cross Alert Level boundaries for the purpose of providing services to a person who is changing their principal home or place of residence.
2. On Monday 11 October, Cabinet agreed to enable travel across the Auckland boundary for students who board in hostels in the Alert Level 2 Area and are currently at home in the Alert Level 3 Area for the holidays to make one move to the hostel and stay there. Therefore, the Amendment Order provides for primary and secondary school students to travel to their boarding school hostels for the remainder of their school year; and for the student to be accompanied on that trip. Further work will be undertaken by officials regarding students returning to their family home at the end of the school year and for students who board in hostels in the Alert Level 3 area, but are currently at home in an Alert Level 2 area, to return to school when in person learning recommences.
3. The return home provision is amended to prevent such students travelling back and forth between alert levels.

### *Requirements for primary and secondary students travelling to boarding school*

4. In addition to providing for students to travel across the Alert Level boundary to attend boarding school, the Amendment Order requires them, and those accompanying them, to carry evidence of their permission to travel between alert levels and of a negative COVID-19 test within 72 hours of beginning their journey.

### *Clarification of Alert Level 3 Stage 1 restrictions*

5. The Amendment Order amends the permissions for essential personal movement within the Auckland Alert Level 3 area to exclude overnight travel to attend a limited outdoor gathering or for exercise or recreational purposes.
6. It also amends the permissions for essential personal movement within the Auckland Alert Level 3 area to exclude attending a limited outdoor gathering as a permitted reason to travel to Waiheke Island or Great Barrier (Aotea) Island.

### *Real estate or property relocation services within Alert Level 3 areas*

7. The Amendment Order also provides clarification of who may be at a property at the same time when real estate or property relocation services take place. This limits those who can view a property to residents of a single household.



*Restricting travel to a secondary place of residence*

8. As proposed by officials and agreed on 20 September 2021 [DPMC-2021/22-243 refers] this Amendment Order prohibits persons travelling to a secondary home or place of residence following a Government announcement of an Alert Level change and before those changes come into force.

*Technical amendment with regard to the publication of exemptions granted by the Director-General under the order*

9. This Amendment Order also includes a technical amendment to meet the new publication requirements of the Legislation Act 2019, which comes into force on 28 October 2021. Therefore, the related clause of the amendment order has a delayed commencement and will come into effect on 28 October.

### **Procedural Requirements for a COVID-19 Order**

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10. 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*

11. 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.
12. This Amendment Order generally provides more permissive settings within the Alert Level 3 areas and introduces additional permitted personal movements between Alert Levels. The 48-hour notice period does not need to be observed with respect to these amendments.
13. In this instance, some of the proposed amendments create additional restrictions. These are as follows:
  - a) excluding travel to Waiheke Island or Great Barrier (Aotea) Island to attend a limited outdoor gathering;
  - b) excluding overnight travel for the purposes of attending a limited outdoor gathering or for exercise or recreational purposes;
  - c) prohibiting persons travelling to a secondary home or place of residence, following a Government announcement of an alert level change and before those changes come into force, to avoid being subject to stricter alert level requirements.
14. We consider that in order for these amendments to be effective measures to limit the spread of COVID-19, they should be applied immediately.

*Ministerial Consultation*

15. 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.
16. Ministerial consultation has largely been undertaken either through the Cabinet process and briefings that included the relevant Ministers. Other amendments have been provided in summary form to your office, which has arranged for consultation with the offices of the relevant Ministers.

*Public Health Advice*

17. 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.
18. The Ministry of Health has confirmed that the amendments are consistent with the Director General of Health's general advice as to the appropriate alert level settings to be applied in the present circumstances.

*New Zealand Bill of Rights Act 1990*

19. In addition to the specified requirements from the Act, 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).

20. s9(2)(h)



Attachments:	
Attachment A:	COVID-19 PUBLIC HEALTH RESPONSE (ALERT LEVEL REQUIREMENTS) ORDER (NO 12) AMENDMENT ORDER (NO 7) 2021 (Signature Copy)

# ATTACHMENT A

COVID-19 PUBLIC HEALTH RESPONSE (ALERT LEVEL REQUIREMENTS) ORDER (NO 12) AMENDMENT ORDER (NO 7) 2021  
(Signature Copy)

Proactively Released