



# Briefing

## PROTECTION FRAMEWORK AMENDMENT ORDER FOR SIGNING - COVID-19 PUBLIC HEALTH RESPONSE (PROTECTION FRAMEWORK) AMENDMENT ORDER (NO 2) 2021

To: Hon Chris Hipkins  
Minister for COVID-19 Response

Date	10/12/2021	Priority	[URGENT]
Deadline	10/12/2021	Briefing Number	DPMC-2021/22-1075

### Purpose

Attached to this briefing is the proposed COVID-19 Public Health Response (Protection Framework) Amendment Order (No 2) 2021 which we recommend that you sign. This order enables travel out of the extended Auckland area from 11.59pm 14 December 2021 on certain conditions, updates the definitions of close-proximity business or service to capture Out of School Care and Recreation (OSCAR) services delivered at premises other than the premises of a registered school, and makes some minor amendments to align the purposes for which cross-boundary travel is permitted and related travel conditions with those under earlier alert level orders.

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** this brief provides a summary of the key provisions of the proposed order.



2. Sign the attachment COVID-19 Public Health Response (Protection Framework) Amendment Order (No 2) 2021.

**YES** / NO

*Ben White*

Ben White  
Policy Manager

---

10 / 12 / 2021

*[Signature]*

Hon Chris Hipkins  
Minister for COVID-19 Response

---

10 / 12 / 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- Withdrawn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

# PROTECTION FRAMEWORK AMENDMENT ORDER FOR SIGNING – COVID-19 PUBLIC HEALTH RESPONSE (PROTECTION FRAMEWORK) AMENDMENT ORDER (NO 2) 2021

## Summary of the Amendments

---

### *Travel out of the extended Auckland area*

1. The main purpose of the amendments is to set new rules for travelling out of the extended Auckland area.
2. Cabinet has agreed that from 11.59pm Tuesday 14 December, most of the restrictions in the principal order on travel into the extended Auckland area will no longer apply. Instead people in the extended Auckland area, including people who travel into that area, will be subject to rules before they can cross the boundary to go out of that area [CAB-21-MIN-0477 refers].
3. People will be able to travel out of the extended Auckland area if they are:
  - a) CVC compliant; or
  - b) carry evidence of a negative result from a COVID-19 test administered no more than 72 hours before their journey began; or
  - c) they are travelling into, through, and out of the extended Auckland area in one trip; or
  - d) they are travelling for certain specified purposes and meet certain specified travel conditions (see Part 2 of the Schedule of the order).

The Amendment Order makes provision for these requirements.

4. It also provides clarity that most people boarding a public transport service in the extended Auckland area on a route that ends out of that area will need to carry their CVC or evidence of a negative test result. Such people will have to produce their CVC or that evidence if asked to do so by the public transport operator or the public transport operator's representative. The requirement applies only to a person who is travelling out of the extended Auckland area and are CVC compliant or have evidence a negative test result. If they do not produce their CVC or evidence of a negative test result, they may be denied access to the service.
5. The current requirements to facilitate surveillance testing and medical examination for workers undertaking cross-boundary travel remains for some businesses and services to the extent that their workers are unvaccinated and therefore cannot meet 3(a) above.
6. The principal order will be amended with the clauses to be activated on and from 11.59 pm on 14 December 2021 (see Part 1 of the Schedule of the Amendment Order).



*Definitions of close-proximity business or service and licensed early childhood services*

7. The Amendment Order amends the definition of close-proximity business or service to ensure that OSCAR programmes delivered at premises other than the premises of a registered school are within that definition, and education entities are not.
8. It also makes related technical amendments so that persons under who were seeking access to education services at the premises of the OSCAR programme could not be denied entry, or access to the services, on vaccination grounds.

*Other amendments*

9. There are also minor technical amendments to:
  - a) correct the definition of licensed early childhood service; and
  - b) align the purposes for which cross-boundary travel is permitted and related travel conditions with those under earlier Alert Level orders.

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

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. The amendments that come into force at 11.59pm 12 December 2021 are not considered to be an increase in restrictions because:
  - a) they clarify the definition of OSCAR programmes and the prohibition on denying entry on the grounds of vaccinations; and
  - b) insert clauses into the principal order that are not activated by this Order.
13. The amendments relating to travel out of the extended Auckland area are considered a reduction of restrictions, as they will enable more movement across the Auckland boundary.
14. Therefore, the 48-hour notice period is not required. However, it is recommended you sign this amendment order as soon as possible in order to provide as much certainty regarding the legal instruments that will enable travel out of the extended Auckland area.

*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 was undertaken regarding the boundary amendments as part of the Cabinet processes. Your office has conducted ministerial consultation regarding the remaining amendments.

*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. Public Health advice was provided regarding the boundary amendments as part of advice to Cabinet. Public Health had no concerns arising from the remaining amendments.

*New Zealand Bill of Rights Act 1990*

- 19. The Act also requires that you are satisfied that an order under section 11 of the Act does not limit, or is a justified limit, on the rights and freedoms in the New Zealand Bill of Rights Act 1990 (NZBORA).
- 20. s9(2)(h) [REDACTED]

Attachments:	
Attachment A:	COVID-19 Public Health Response (Protection Framework) Amendment Order (No 2) 2021 (Signature Copy)

# ATTACHMENT A

COVID-19 Public Health Response (Protection Framework)  
Amendment Order (No 2) 2021 (Signature Copy)

Proactively Released