

Reprint
as at 8 June 2020



COVID-19 Public Health Response (Alert Level 2) Amendment Order 2020

(LI 2020/97)

COVID-19 Public Health Response (Alert Level 2) Amendment Order 2020: revoked, at 11.59 pm on 8 June 2020, pursuant to clause 3 of the COVID-19 Public Health Response (Alert Level 2) Order Revocation Order 2020 (LI 2020/112).

This order is made in accordance with sections 9 and 11 of the COVID-19 Public Health Response Act 2020 by the Minister of Health.

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

This order is administered by the Ministry of Health.

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Order

1 Title

This order is the COVID-19 Public Health Response (Alert Level 2) Amendment Order 2020.

2 Commencement

This order comes into force at 11.59 am on 29 May 2020.

3 Principal order

This order amends the COVID-19 Public Health Response (Alert Level 2) Order 2020 (the **principal order**).

4 Clause 4 amended (Interpretation)

- (1) In clause 4, definition of **businesses** and **services**, replace paragraph (a)(iv) with:

(iv) businesses and services that provide facilities or venues for events or activities if people pay to attend the event or participate in the activities or pay to hire the facility or venue; and

- (2) In clause 4, definition of **businesses** and **services**, after paragraph (b)(ii), insert:

(iii) faith-based gatherings; or

(iv) community club activities (except activities that occur at the same time and place as services provided under a club licence under section 21 of the Sale and Supply of Alcohol Act 2012)

- (3) In clause 4, insert in their appropriate alphabetical order:

defined space—

- (a) means any single indoor space or outdoor space (*see* subclause (2)); and
- (b) if there is more than 1 space in any premises, means a space described in paragraph (a) for which there are systems and processes in operation that ensure, to the greatest extent practicable, that persons using the space

(other than workers) do not intermingle at a distance closer than 2 metres with other persons using, entering, or leaving the premises

organiser of a social gathering means a person who arranges or organises the social gathering

person in control, in relation to a defined space or premises,—

- (a) means a person who manages or controls the defined space or premises; and
- (b) includes—
 - (i) any occupier of the defined space or premises; and
 - (ii) if a facility or venue of a business or service is hired for an event or activity, that business or service

social gathering has the meaning given in clause 15

(4) In clause 4, revoke the definitions of **gathering of friends and whānau** and **household unit**.

(5) In clause 4, definition of **keep records to enable contact tracing**, revoke paragraph (b).

(6) In clause 4, insert as subclause (2):

(2) For the purpose of the definition of **defined space** in subclause (1),—

- (a) an indoor space or outdoor space is a single space if there are walls (whether permanent or temporary) that substantially divide that space from other spaces:
- (b) an outdoor space is also a single space if there is at least 2 metres between all people in that space and any other people (outside that space).

5 **Clause 7 amended (Guide to requirements in this order)**

(1) In clause 7(1), replace “clauses 10 to 13” with “clauses 8 and 10 to 13”.

(2) Replace clause 7(2)(b) with:

- (b) comply with the requirements relating to social gatherings in clauses 8, 16, and 17.

6 **Clauses 8 and 9 replaced**

Replace clauses 8 and 9 with:

8 **People must comply with COVID-19 requirements**

(1) A person (**person A**) who enters a workplace of a business or service, uses its services, or carries out work for the business or service must comply with the requirements described in subclause (2) to the extent that they—

- (a) apply to the business or service in relation to person A; and
- (b) are notified to, or brought to the attention of, person A.

- (2) The requirements referred to in subclause (1) are the following (as applied by clause 9):
 - (a) the physical distancing requirements in clauses 10(2)(a) and (b) and 11(2)(a);
 - (b) the requirements in clauses 10(2)(e) and 11(2)(b) to keep records to enable contact tracing;
 - (c) the requirement in clause 12(2)(b) to ensure that each customer or client is seated at a table except in limited circumstances.
- (3) A person—
 - (a) must not participate in a social gathering that exceeds the number limit in clause 16(1); and
 - (b) must, if participating in a social gathering, comply with the requirements in clause 17 to enable contact tracing records to be kept.
- (4) A breach of subclause (1) is an infringement offence for the purposes of section 26(3) of the COVID-19 Public Health Response Act 2020.

9 Persons that carry on businesses and services must comply with general and specific requirements

- (1) Any reference in clauses 8 or 10 to 13 to a requirement applying to a business or service must be read as a requirement that applies, in accordance with this clause, to the person who is carrying on the business or service.
- (2) All businesses and services must comply, so far as is reasonably practicable, with—
 - (a) the general requirements in clause 10 or 11 (or both), to the extent applicable; and
 - (b) each of the specific additional requirements in clauses 12 and 13 to the extent that they apply to their activities.
- (3) More than 1 business or service may operate in the same, or a shared, premises (for example, a shopping mall, a marketplace, or a cafe that operates in an office building) provided that each of those businesses and services is able to comply with all of the requirements in clauses 10 to 13 to the extent that they apply to them or their activities.
- (4) However,—
 - (a) if there is a gathering of friends and whānau in the workplace at any 1 time,—
 - (i) those people need not comply with the physical distancing requirements in clause 10(2)(b) or 11(2)(a); and
 - (ii) a business or service need not ensure that they do so:

- (b) if the facility or venue of a business or service is hired for a social gathering, the business or service must comply with clauses 16 and 17 in relation to the customers or clients (instead of clauses 10 to 13).
- (5) In this clause, **gathering of friends and whānau** means a group of customers or clients who confirm that they are, or whom it is otherwise reasonable to believe to be, a group of persons who all know each other and can identify each other for the purpose of contact tracing.

7 Clause 10 amended (General requirements for all businesses and services)

- (1) In clause 10(1), replace “businesses and services” with “businesses and services (except to the extent that clause 11 applies to them)”.
- (2) Revoke clause 10(2)(a)(ii).
- (3) In clause 10(2)(b), delete “, except for workers who are part of a gathering of friends and whānau”.
- (4) Revoke clause 10(2)(d) and (f).

8 Clause 11 amended (Specific controlled access requirements for businesses and services and other entities)

- (1) Replace the heading to clause 11 with “**General controlled access requirements**”.
- (2) After clause 11(1)(a)(iv), insert:
 - (iva) businesses and services to the extent to which clauses 12 and 13 apply to them (despite paragraph (b)); and
- (3) Replace clause 11(2) with:
 - (2) The businesses and services and other entities to which this clause applies must—
 - (a) ensure that all people who enter the workplace, use its services, or carry out work for the business or service remain at least 1 metre away from each other (to the greatest extent practicable); and
 - (b) keep records to enable contact tracing of people who enter the workplace, use its services, or carry out work for the business or service; and
 - (c) if they are an event facility of the kind described in subclause (1)(a)(iv), permit no more than 100 customers or clients to be in any 1 defined space in the workplace at any 1 time (not including workers); and
 - (d) mitigate the risks that arise to the extent that the physical distancing requirements in paragraph (a) (or the specific physical distancing requirements in clauses 12 and 13 that apply instead) are not fully maintained.

9 Clause 12 amended (Specific food and drink requirements for businesses and services)

- (1) Replace clause 12(2) with:
- (2) Businesses and services must—
 - (a) permit no more than 100 customers or clients to be in any 1 defined space in the workplace at any 1 time; and
 - (b) ensure that each customer or client is seated at a table other than when—
 - (i) entering, using a toilet or bathroom, paying, or departing; or
 - (ii) ordering or collecting food and drink except in on-licence premises or club licence premises; and
 - (c) ensure that adjacent tables are arranged so there is at least a 1-metre separation between the seated customers or clients at adjacent tables; and
 - (d) ensure, to the greatest extent practicable, that only 1 worker serves at any table; and
 - (e) comply with clause 11(2)(a) in relation to those customers and clients when they are not seated at the table; and
 - (f) otherwise comply with the requirements in clause 11(2) in relation to the activities to which this clause applies.

- (2) After clause 12(4), insert:

- (5) In this clause,—

club licence premises means premises in which activities are undertaken under a licence under section 21 of the Sale and Supply of Alcohol Act 2012

on-licence has the same meaning as in sections 14 to 16 of the Sale and Supply of Alcohol Act 2012.

10 Clause 13 amended (Specific proximity requirements for businesses and services)

- (1) In clause 13(1), delete “small passenger services.”
- (2) Replace clause 13(2)(a) and (b) with:
 - (a) ensure that all people who enter the workplace or use its services remain at least 1 metre away from each other and from workers (to the greatest extent practicable), except to the extent that workers are required to have physical contact with, or close proximity to, people in order to carry out the activities of that business or service; and
 - (b) otherwise comply with the requirements in clause 11(2) in relation to the activities to which this clause applies.
- (3) Revoke clause 13(4).

11 Subpart 3 heading in Part 2 replaced

In Part 2, replace the subpart 3 heading with:

Subpart 3—Social gatherings

12 Clause 15 replaced (Types of gatherings)

Replace clause 15 with:

15 Social gathering defined

In this order, **social gathering**—

- (a) means a group of people who are intermingling; but
- (b) does not include—
 - (i) activities where people remain at least 2 metres away from each other to the greatest extent practicable (for example, activities carried out by people who are at a playground, beach, or park);
 - (ii) activities that are undertaken at a business or service in compliance with clauses 10 to 13; but
- (c) does include a gathering of people if—
 - (i) the gathering is held at the facilities or venue of a business or service that has been hired for the gathering; but
 - (ii) the gathering is not held for the purpose of a business or service.

13 Clauses 16 and 17 replaced

Replace clauses 16 and 17 with:

16 Number limits for social gatherings

- (1) A social gathering that exceeds 100 people in a defined space at any 1 time (the **number limit**) is prohibited.
- (2) An organiser of a social gathering must ensure that the social gathering does not exceed, and is not likely to exceed, the number limit.
- (3) A person in control of any premises, or of any defined space in any premises, in which a social gathering is held must ensure that the social gathering does not exceed, and is not likely to exceed, the number limit.
- (4) Workers who are providing services in relation to a social gathering are not to be counted as part of the number limit.
- (5) A breach of subclause (2) or (3) is an infringement offence for the purposes of section 26(3) of the COVID-19 Public Health Response Act 2020.

17 Record-keeping requirements to enable contact tracing

- (1) A social gathering in which the requirements in subclause (2) are not met is prohibited.

- (2) The organiser of a social gathering, and the person in control of the defined space or premises in which a social gathering is held, must ensure that at least 1 of the following people keep records to enable contact tracing in relation to the social gathering:
 - (a) the organiser of the social gathering;
 - (b) the person in control of the defined space or premises where the gathering is held;
 - (c) a participant in the social gathering.
- (3) Subclause (2) does not apply if every person at the social gathering knows, and can identify for the purposes of contact tracing, every other person who is a participant in the social gathering.
- (4) A breach of subclause (2) is an infringement offence for the purposes of section 26(3) of the COVID-19 Public Health Response Act 2020.

14 Clauses 18 and 19 revoked

Revoke clauses 18 and 19.

15 Clause 21 amended (Specific exclusions from this order)

- (1) Replace clause 21(1)(d) with:
 - (d) to residential centres (including care and protection and youth justice residences), family homes, and group homes (including family group homes and community-based remand centres) that are approved or recognised for the time being by the Chief Executive of Oranga Tamariki as a place of care or treatment for the purposes of the Oranga Tamariki Act 1989:
- (2) In clause 21(1)(e), after “2004”, insert “or any premises managed by or on behalf of the Department of Corrections”.
- (3) After clause 21(1)(f), insert:
 - (fa) to the administration of sentences and orders by the Department of Corrections, or on its behalf, in accordance with the Corrections Act 2004:
- (4) In clause 21(4), definition of **public transport service**, delete “and excludes small passenger service vehicles (as defined in that Act)”.

16 Clause 23 revoked (Authorisations from this order)

Revoke clause 23.

Dated at Wellington this 27th day of May 2020.

Hon Dr David Clark,
Minister of Health.

Explanatory note

This note is not part of the order, but is intended to indicate its general effect.

This order is the COVID-19 Public Health Response (Alert Level 2) Amendment Order 2020. It comes into force at 11.59 am on 29 May 2020.

This order amends the rules set out in the COVID-19 Public Health Response (Alert Level 2) Order 2020 (the **principal order**).

Businesses and services

This order amends the rules for certain businesses and services so that they—

- are allowed to have up to 100 customers and clients in a defined space within a workplace (at any 1 time), rather than being limited to having that number within the entire workplace (*see clause 4* for the definition of defined space):
- can allow customers and clients at a workplace such as a fast food restaurant or cafe to leave their table for the purpose of ordering or collecting food:
- are no longer required to limit gatherings of friends and whānau, or tables of customers or clients, to a maximum of 10 people.

Social gatherings

This order amends the rules for social gatherings so that gatherings of up to 100 people in a defined space are allowed, provided that contact tracing requirements are met. This rule applies whether the social gathering occurs at a private venue, public place, or a commercial venue such as a funeral parlour or wedding venue. This rule applies to all kinds of social gatherings, and the previous categories of gathering set out in the principal order (being higher-risk gatherings, gatherings of friends and whānau, lower-risk gatherings, and authorised funeral or tangihanga gatherings) are removed.

This order removes the requirement for funeral and tangihanga gatherings to be authorised by the Director-General of Health. Instead, these gatherings will be covered by the ordinary rules for social gatherings.

Technical and other amendments

This order also makes technical and minor amendments to the principal order, which include amendments to—

- introduce a definition of defined space, which may be a space in a venue that is outdoors (for example, a stadium) or a room within premises:
- clarify that social gathering rules, rather than rules relating to business and services, apply to faith-based gatherings and community club activities (except those that are carried on together with the sale and supply of alcohol under a club licence):
- amend clauses 9 to 13 of the principal order to clarify that clauses 12 and 13 apply to specific activities, in addition to the general obligations that apply

under clause 10 (for retail and other businesses) or clause 11 (for the specific businesses or parts of businesses listed in that clause):

- clarify and extend certain exclusions relating to Oranga Tamariki and the Department of Corrections.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 27 May 2020.

Reprints notes

1 *General*

This is a reprint of the COVID-19 Public Health Response (Alert Level 2) Amendment Order 2020 that incorporates all the amendments to that order as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

COVID-19 Public Health Response (Alert Level 2) Order Revocation Order 2020 (LI 2020/112)