

Reprint
as at 22 August 2020



**COVID-19 Public Health Response (Alert Levels 3 and 2)
Order 2020**
(LI 2020/187)

COVID-19 Public Health Response (Alert Levels 3 and 2) Order 2020: revoked, at 11.59 pm on 22 August 2020, by clause 35 of the COVID-19 Public Health Response (Alert Levels 3 and 2) Order (No 2) 2020 (LI 2020/222).

This order is made by the Minister of Health under section 11 of the COVID-19 Public Health Response Act 2020 in accordance with sections 9 and 14(3) of that Act.

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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 Levels 3 and 2) Order 2020.

2 Commencement

- (1) This order comes into force at 11:59 am on 12 August 2020.
- (2) However, clauses 11(1)(c), 11(2)(c), 11(4)(b), 11(5)(b), 16(2)(d), and 17(2)(b) come into force at 11:59 am on 19 August 2020.

Part 1

Preliminary provisions

3 Purpose

The purpose of this order is to prevent, and limit the risk of, the outbreak or spread of COVID-19.

4 Interpretation

- (1) In this order, unless the context otherwise requires,—

Act means the COVID-19 Public Health Response Act 2020

alert level 3 area means the area within the boundaries of Auckland as determined by the Local Government (Auckland Boundaries) Determination 2010

alert level 3 requirements, in relation to a business or service, means the requirements that apply to that business or service under clause 11

businesses and services, in Part 3,—

- (a) includes (except to the extent set out in paragraph (b))—
 - (i) voluntary and not-for-profit services; and
 - (ii) both public sector and private sector businesses and services; and
 - (iii) businesses and services that provide space for other businesses and services to operate within, such as shopping malls and marketplaces; and
 - (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
 - (v) the playing of sports professionally or semi-professionally; but
- (b) does not include—
 - (i) voluntary or not-for-profit sporting, recreational, social, or cultural activities; or

- (ii) households carrying out family activities in their household unit; or
- (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)

category A business or service means a business or service listed in Part 1 of Schedule 2

category B business means a business listed in Part 2 of Schedule 2

category C business or service means any business or service that is not a category A business or service, a category B business, a venue business, or a public transport service

controlled gatherings means a gathering that meets all of the following requirements:

- (a) at which there are no more than 10 people at any one time (including any celebrant, organiser, or other assistant); and
- (b) that is for one of the following purposes:
 - (i) a funeral service;
 - (ii) a tangihanga;
 - (iii) a wedding or civil union service; and
- (c) at which no food or drink is served

customers and clients,—

- (a) for an education entity, does not include students attending the education entity; but
- (b) otherwise includes any non-paying customer or client

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

education entity has the same meaning as in section 10(8) of the Education and Training Act 2020

essential personal movement means movement permitted as essential personal movement under clause 9

extended bubble arrangements means an agreement by all of the residents (other than a person under 18 years) of 2 or more homes or places of residence

to comply with clauses 8 and 9 of this order as if they were 1 residence for the purpose of keeping connections with family or whānau, enabling caregiving, or supporting persons living alone or otherwise isolated

fellow resident, for any person (**person A**), means another person who resides at—

- (a) the same home or place of residence as person A; or
- (b) another home or place of residence in relation to which person A has an extended bubble arrangement

game bird means a game bird specified in Schedule 1 of the Wildlife Act 1953

gathering—

- (a) means people who are intermingling in a group; but
- (b) does not include people remaining at least 2 metres away from each other to the greatest extent practicable

health services has the same meaning as in section 5(1) of the Health Practitioners Competence Assurance Act 2003

high-risk person means a person who has been diagnosed with COVID-19, has COVID-19 symptoms, is being or has been tested for COVID-19 and is awaiting a test result, or has been in close contact with someone with suspected, probable, or confirmed COVID-19 in the last 14 days

home or place of residence—

- (a) includes a campervan, caravan, or other vehicle or temporary structure (for example, a tent) that is a place of residence; and
- (b) in the case of a building, includes the land that is part of the property on which the building is situated (other than any common areas); and
- (c) includes any prison, hospital, or other facility or place in which a person is detained or compulsorily placed under any enactment

level 3 physical distancing means—

- (a) for premises under the control of a category A business or service, remaining 1 metre away from people; and
- (b) for premises under the control of a category B business,—
 - (i) for those providing the business, remaining 1 metre away from any other person providing the business; and
 - (ii) in any other case, remaining 2 metres away from people; and
- (c) for premises under the control of a category C business or service, remaining 1 metre away from people; and
- (d) in any other case, remaining 2 metres away from other people

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

premises has the same meaning as in section 2(1) of the Health Act 1956 (which includes any commercial premises, private premises, vehicle, ship, or aircraft)

public transport service has the same meaning as in section 5(1) of the Land Transport Management Act 2003; but

- (a) includes air transport that is available to the public generally; and
- (b) excludes small passenger service vehicles (as defined in that Act)

QR code means a unique identifying code issued by the Government for the purpose of supporting contact tracing

region means the area of the Civil Defence Emergency Management Group (under the Civil Defence Emergency Management Act 2002) of which the relevant territorial authority is a member and (to avoid doubt) includes an alert level 3 area

shared caregiver, in relation to a child, means a person who, under an agreement, or a parenting order or an interim parenting order made under the Care of Children Act 2004, has the role of providing the day-to-day care of the child

social gathering—

- (a) means people who are intermingling in a group; but
- (b) does not include—
 - (i) people remaining at least 2 metres away from each other to the greatest extent practicable; and
 - (ii) an activity undertaken at a business or service in compliance with clauses 15 to 19; but
- (c) does include a gathering 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

venue business means a business of providing a venue for gatherings (whether as the main or ancillary part of the business)

vulnerable person means a person who is at significant risk of serious illness if they contract COVID-19

worker—

- (a) means, in the context of a business or service that is required to comply with clauses 16 to 19, any person who carries out work in any capacity for that business or service (whether paid or unpaid); and
- (b) to avoid doubt, includes professional and semi-professional sports players

workplace has the same meaning as in section 20 of the Health and Safety at Work Act 2015.

- (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 are at least 2 metres between all people in that space and any other people (outside that space).

5 Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1 have effect according to their terms.

6 Application of this order

This order applies in New Zealand.

Part 2

**Alert level 3 requirements to prevent the outbreak or spread of
COVID-19 in alert level 3 area**

7 Application of this Part

This Part applies—

- (a) in the alert level 3 area; and
- (b) to any property if a part of it is in the alert level 3 area; and
- (c) to any other place if necessary for the purpose of enforcing the measures in the places referred to in paragraph (a) or (b).

Alert level 3 stay-at-home and physical distancing requirements

8 Alert level 3 stay-at-home and physical distancing requirements

- (1) All persons within the alert level 3 area must—
 - (a) remain at their current home or place of residence, except for essential personal movement; and

- (b) maintain level 3 physical distancing (to the greatest extent practicable), except that—
 - (i) physical distancing need not be maintained from any fellow resident; and
 - (ii) when accessing and using the premises of a category A business or service, physical distancing needs to be maintained only as far as is reasonably practicable taking into account the nature of the business or service; and
 - (c) if their home or place of residence is mobile, keep that home or place of residence in the same general location, except to the extent they would be permitted (if it were not mobile) to leave the home or place of residence as essential personal movement.
- (2) This requirement does not apply to a person while the COVID-19 Public Health Response (Air Border) Order 2020 or the COVID-19 Public Health Response (Maritime Border) Order 2020 applies to that person.
- (3) A breach of subclause (1)(a), (b), or (c) is an infringement offence for the purposes of section 26(3) of the Act.

9 Permissions for essential personal movement

A person is permitted to do any of the following as **essential personal movement**:

Accessing businesses or services

- (a) leave their home or place of residence for the purpose of accessing any business or service that has the alert level 3 requirements in place if—
 - (i) doing so for their own needs or on behalf of a fellow resident, a vulnerable person, or a high-risk person; and
 - (ii) the business or service is in the alert level 3 area:

Attending education entities

- (b) leave their home or place of residence for the purpose of attending any education entity that has the alert level 3 requirements in place if—
 - (i) they are permitted to attend the education entity under those requirements; and
 - (ii) the education entity is in the alert level 3 area:

Working

- (c) leave their home or place of residence for the purpose of providing a business or service that has the alert level 3 requirements in place (or to do necessary work at any premises under clause 10(2)) if the business or service is—
 - (i) in the alert level 3 area; or

- (ii) in another region to the extent that doing so is necessary for the purpose of a business or service listed in Schedule 3 (and, if necessary, stay in temporary accommodation in that region), and then return to their home or place of residence:
- (d) leave their home or place of residence for the purpose of working at an education entity that has the alert level 3 requirements in place if the education entity is in the alert level 3 area:

Limited recreation purposes

- (e) leave their home or place of residence for the purpose of exercise or other recreation if—
 - (i) it is done in an outdoor place appropriate for that kind of exercise or recreation that is readily accessible (including by using their vehicle) from their home or place of residence (and, in any case, is within the alert level 3 area); and
 - (ii) it is done in compliance with the requirements that relate to physical distancing (*see* clause 8(1)(b)) and the prohibition against gathering (*see* clause 12); and
 - (iii) it does not involve flying manned aircraft, scuba-diving, hunting in motorised vehicles, hunting or killing of game birds, or water-based activities involving sailing boats, motorised craft, or motorised equipment; and
 - (iv) it does not involve any other activities that expose the participant to danger (taking account of their experience and abilities):

Limited customary purposes

- (f) leave their home or place of residence for the purpose of exercising Māori customary rights to fishing and food gathering if—
 - (i) it is done in an outdoor place appropriate for that kind of activity that is readily accessible (including by using their vehicle) from their home or place of residence (and, in any case, is within the alert level 3 area); and
 - (ii) it is done in compliance with the requirements that relate to physical distancing (*see* clause 8(1)(b)) and the prohibition against gathering (*see* clause 12); and
 - (iii) it does not involve flying manned aircraft, scuba-diving, hunting in motorised vehicles, or water-based activities involving sailing boats, motorised craft, or motorised equipment; and
 - (iv) it does not involve any other activities that expose the participant to danger (taking account of their experience and abilities):

Controlled gatherings

- (g) leave their home or place of residence for the purpose of attending a controlled gathering in the alert level 3 area:

Extended bubble arrangements and shared caregiving arrangements

- (h) leave their home or place of residence for the purpose of visiting or staying at another home or place of residence (and then visiting or staying) if those homes or residences have an extended bubble arrangement and are in the alert level 3 area:
- (i) if a child, leave the extended bubble arrangement of 1 shared caregiver for the purpose of visiting or staying at the extended bubble arrangement of another shared caregiver (and then visiting or staying) in the alert level 3 area:

Relocating premises

- (j) relocate their home or place of residence or business premises, and leave their home or place of residence or business premises for the purpose of arranging and carrying out the relocation (including for inspection of the property or a potential property) within the alert level 3 area:

Accessing medical services, visiting hospitals, accessing courts, emergencies, court orders, etc

- (k) leave their home or place of residence for the purpose of accessing medical services in the alert level 3 area:
- (l) leave their home or place of residence to care for their pets or other animals in the alert level 3 area:
- (m) leave their home or place of residence to attend a court, tribunal, New Zealand Parole Board hearing, or other judicial institution in the alert level 3 area:
- (n) leave their home or place of residence to go to a place in the alert level 3 area if it is necessary to preserve their own or any other person's life or safety:
- (o) change their home or place of residence to go to a place in the alert level 3 area if necessary to use another temporary or emergency home (for example, for care while sick or to seek refuge in women's refuge accommodation):
- (p) leave or change their home or place of residence as required by a court order or any other power under any enactment to order a person to be detained, to change their place of detention, or otherwise determine their place of residence (for example, a direction of the New Zealand Parole Board or a probation officer), or to return to a home or place of residence after that detention or determination ceases:

Travel home by managed arrivals or by visitors leaving New Zealand and transiting

- (q) in the case of a person who has arrived in New Zealand (and to whom the COVID-19 Public Health Response (Air Border) Order 2020 or the COVID-19 Public Health Response (Maritime Border) Order 2020 does not or no longer applies), travel directly to their intended home or place of residence in New Zealand:
- (r) in the case of a person intending to leave New Zealand to return to their home jurisdiction, travel directly to an airport (within the alert level 3 area) from which they will leave New Zealand or to any place of isolation or quarantine to be undertaken immediately before they leave New Zealand:
- (s) in the case of a person who is permitted to enter the alert level 3 area under clause 23(1)(c), travel for the purpose of directly transiting (as defined in that clause) to another place in New Zealand or outside New Zealand:

Other

- (t) leave their home or place of residence to assist another fellow resident to travel to carry out essential personal movement or to accompany a fellow resident carrying out essential personal movement, but only to the extent permitted for that fellow resident under this clause.

Closure of premises

10 Closure of premises unless alert level 3 requirements met

- (1) Premises in the alert level 3 area must be closed unless the business or service that controls those premises complies with the requirements set out in clause 11.
- (2) However,—
 - (a) this clause does not prevent a person from undertaking any necessary work in any premises for either of the following purposes:
 - (i) minimum basic operations required to maintain the condition or value of, or clean, the premises, plant, equipment, or goods, care for animals, receive stock or freight, and enable and support workers to be able to continue to work remotely from their homes:
 - (ii) work required to prepare the premises for opening (and meet public health guidance).
 - (b) this clause does not apply to any premises referred to in section 12(2)(c) or (d) of the Act.
- (3) A breach of subclause (1) is an infringement offence for the purposes of section 26(3) of the Act.

11 Alert level 3 requirements for businesses and services*Category A business or service (including education entities)*

- (1) A category A business or service must have systems and processes in place to—
 - (a) ensure that—
 - (i) level 3 physical distancing can be maintained by persons accessing and using the premises, so far as is reasonably practicable taking into account the nature of the business or service; and
 - (ii) the risks that arise to the extent physical distancing is not fully maintained on the premises are mitigated; and
 - (b) in the case of education entities,—
 - (i) keep children, students, and teachers, to the extent reasonably practicable, in groups that are appropriately sized and stable; and
 - (ii) for schools, limit students' physical attendance to years 1 to 10; and
 - (c) ensure that a copy of the QR code for the business or service is displayed in a prominent place at or near the main entrances to the workplace.

Category B business or service

- (2) A category B business or service must have systems and processes in place to—
 - (a) ensure that—
 - (i) level 3 physical distancing can be maintained by persons accessing and using the premises, so far as is reasonably practicable taking into account the nature of the business or service; and
 - (ii) the risks that arise to the extent physical distancing is not fully maintained on the premises are mitigated; and
 - (b) prevent food and drink being served for consumption on the premises (unless the service is an accommodation service); and
 - (c) ensure that a copy of the QR code for the business or service is displayed in a prominent place at or near the main entrances to the workplace.

Public transport service

- (3) A public transport service must have systems and processes in place to—
 - (a) ensure that—
 - (i) level 3 physical distancing can be maintained by persons accessing and using the premises, so far as is reasonably practicable taking into account the nature of the business or service; and
 - (ii) the risks that arise to the extent physical distancing is not fully maintained on the premises are mitigated; and

- (b) support contact tracing of persons who access or use the premises.

Venue business

- (4) A venue business must have systems and processes in place to—
 - (a) ensure that—
 - (i) level 3 physical distancing can be maintained by persons accessing and using the premises, so far as is reasonably practicable taking into account the nature of the business or service; and
 - (ii) the risks that arise to the extent physical distancing is not fully maintained on the premises are mitigated; and
 - (b) ensure that a copy of the QR code for the business or service is displayed in a prominent place at or near the main entrances to the workplace; and
 - (c) otherwise support contact tracing of persons who access or use the premises; and
 - (d) ensure that the premises are used only for the purpose of a controlled gathering.

Category C business or service

- (5) A category C business or service must have systems and processes in place to—
 - (a) ensure that—
 - (i) level 3 physical distancing can be maintained by persons accessing and using the premises, so far as is reasonably practicable taking into account the nature of the business or service; and
 - (ii) the risks that arise to the extent physical distancing is not fully maintained on the premises are mitigated; and
 - (b) ensure that a copy of the QR code for the business or service is displayed in a prominent place at or near the main entrances to the workplace; and
 - (c) otherwise support contact tracing of persons who access or use the premises; and
 - (d) ensure that—
 - (i) no customers or clients enter the premises (other than only, and then to the minimum extent necessary, to collect goods through a method that minimises physical contact and does not involve entering a building); and
 - (ii) there is no close personal contact with customers or clients.

*Prohibitions on gatherings in outdoor places***12 Prohibition on gathering in any outdoor places**

- (1) A person must not participate in a gathering in any outdoor place in an alert level 3 area.
- (2) A person must not organise a gathering in any outdoor place in an alert level 3 area.
- (3) This clause does not apply to an outdoor place that is a venue used for gatherings by a venue business that has the alert level 3 requirements in place.
- (4) A breach of subclause (2) is an infringement offence for the purposes of section 26(3) of the Act.

Part 3**Alert level 2 requirements to prevent the outbreak or spread of in rest of New Zealand****13 Application of Part**

This Part applies in all areas of New Zealand except to the extent Part 2 applies.

*Workplace alert level 2 requirements***14 People must comply with alert level 2 requirements for workplaces**

- (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 are the following (as applied by clause 15):
 - (a) the physical distancing requirements in clauses 16(2)(a) and (b) and 17(2)(a):
 - (b) the requirement in clause 18(2)(b) to ensure that each customer or client is seated at a table except in limited circumstances.
- (3) A breach of subclause (1) is an infringement offence for the purposes of section 26(3) of the Act.

15 Businesses and services must comply with general and specific alert level 2 requirements

- (1) Any reference in clauses 14 or 16 to 19 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, as far as is reasonably practicable, with—
 - (a) the general requirements in clause 16 or 17 (or both) to the extent applicable; and
 - (b) each of the specific additional requirements in clauses 18 and 19 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 16 to 19 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 16(2)(b) or 17(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 21 and 22 in relation to the customers or clients (instead of clauses 16 to 19).
- (5) In this clause, a **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.

16 General alert level 2 requirements for all businesses and services

- (1) This clause applies to all businesses and services (except to the extent that clause 17 applies to them).
- (2) Businesses and services must—
 - (a) ensure that all people who enter the workplace or use its services remain 2 metres away from each other and from the workers (to the greatest extent practicable), except to the extent that paragraph (b) applies; and
 - (b) ensure that all workers who enter the workplace or carry out work for the business or service remain 1 metre away from each other (to the greatest extent practicable); and
 - (c) mitigate the risks that arise to the extent that the physical distancing requirements in paragraphs (a) and (b) (or the specific physical distancing requirements in clauses 17 to 19 that apply instead) are not fully maintained; and

- (d) display a copy of the QR code for the business or service in a prominent place at or near the main entrances to the workplace; and
 - (e) have other systems and processes in place to support contact tracing of persons who enter the workplace or carry out work for the business or service.
- (3) A breach of subclause (2) (as applied by clause 15) is an infringement offence for the purposes of section 26(3) of the Act.

17 General controlled access alert level 2 requirements

- (1) This clause—
- (a) applies to—
 - (i) businesses and services to the extent that they largely have a consistent group of workers and usually have a fixed workplace, such as office workplaces and factories; and
 - (ii) businesses and services to the extent that their customers or clients are members of the business or service, such as gyms; and
 - (iii) public facilities that are located within a building or structure, such as swimming pools, libraries, and museums; and
 - (iv) event facilities such as cinemas, theatres, stadiums, concert venues, conference venues, and casinos; and
 - (v) businesses and services to the extent to which clauses 18 and 19 apply to them (despite paragraph (b)); and
 - (vi) courts and tribunals; but
 - (b) does not apply to retail businesses, such as shopping malls, supermarkets, marketplaces, takeaway-food stores, and retail stores.
- (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) display a copy of the QR code for the business or service in a prominent place at or near the main entrances to the workplace; and
 - (c) have other systems and processes in place to support contact tracing of persons who enter the workplace or carry out work for the business or service; and
 - (d) 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
 - (e) mitigate the risks that arise to the extent that the physical distancing requirements in paragraph (a) (or the specific physical distancing

requirements in clauses 18 and 19 that apply instead) are not fully maintained.

- (3) A breach of subclause (2) (as applied by clause 15) is an infringement offence for the purposes of section 26(3) of the Act.

18 Specific food and drink alert level 2 requirements for businesses and services

- (1) This clause applies to the extent that customers or clients enter the workplace of a business or service and food or drink is sold or provided for consumption (or offered for consumption) to those customers or clients in that workplace, such as—
- (a) a restaurant or cafe; or
 - (b) a soup kitchen or other place where food or drink is provided without charge.
- (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 17(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 17(2) in relation to the activities to which this clause applies.
- (3) Nothing in this clause applies to—
- (a) accommodation services selling or providing food or drink for residents (including room service);
 - (b) businesses or services providing food or drink to their workers;
 - (c) vending machines that are located and used within a workplace;
 - (d) cinemas or theatres selling food or drink to customers or clients when they are seated inside the cinema or theatre.
- (4) A breach of subclause (2) (as applied by clause 15) is an infringement offence for the purposes of section 26(3) of the Act.

19 Specific proximity alert level 2 requirements for businesses and services

- (1) This clause applies to the extent that a business or service cannot operate without physical contact, or close proximity, between people, such as massage and hairdressing services, and professional or semi-professional sports.
- (2) Businesses and services must—
 - (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 17(2) in relation to the activities to which this clause applies.
- (3) A breach of subclause (2) (as applied by clause 15) is an infringement offence for the purposes of section 26(3) of the Act.

*Social gathering alert level 2 requirements***20 Persons must comply with social gathering alert level 2 requirements**

- (1) A person—
 - (a) must not participate in a social gathering that exceeds the number limit in clause 21(1); and
 - (b) must, if participating in a social gathering, comply with the requirements in clause 22 to enable contact tracing records to be kept.
- (2) However, nothing in this subpart prevents people from residing together in their home or place of residence.

21 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 Act.

22 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 Act.

Prohibition on entering alert level 3 area

23 Prohibition on entering alert level 3 area

- (1) No person may enter an alert level 3 area unless—
 - (a) they are returning to their principal home or place of residence in the alert level 3 area; or
 - (b) it is necessary for the purpose of providing a business or service listed in Schedule 3; or
 - (c) they are entering on an aircraft for the purpose of directly transiting on another aircraft to another place in New Zealand or outside New Zealand.
- (2) In this clause, a person **directly transits** if the person—
 - (a) does not leave the airport except to board their departing flight; and
 - (b) their departing flight is scheduled to depart within 12 hours of the person entering the airport.

Exclusions

24 Exclusions from this Part

- (1) Nothing in this Part applies—
 - (a) to people using public transport services;
 - (b) people who are at an education entity for the purposes of receiving or providing, or assisting in or supporting the receipt or provision of, edu-

- cation services, provided that the education entity has systems and processes in place to—
- (i) enable suitable contact tracing of people who enter the relevant workplaces, or deliver or use the relevant services; and
 - (ii) mitigate the risks that arise to the extent that the physical distancing requirements in this order that would otherwise apply to the workplace or service are not fully maintained.
- (2) Subclause (1)(b) does not apply to—
- (a) inter-school activities; or
 - (b) activities at (or connected with) an education entity that are attended by people who are otherwise not ordinarily at that education entity for the purposes of receiving or providing, or assisting in or supporting the receipt or provision of, education services.

Part 4

Miscellaneous

25 Exemption for emergencies

Nothing in this order prevents any person from assisting in, or responding to, an emergency.

26 Other exemptions from this order

Nothing in this order applies—

- (a) to the provision of health services;
- (b) to people using a service for the carriage of passengers for hire or reward that is contracted or funded by the Ministry of Education, local authorities, or Auckland Transport for the sole or primary purpose of transporting school children to and from school;
- (c) 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;
- (d) within a corrections prison as defined in section 3(1) of the Corrections Act 2004 or any premises managed by or on behalf of the Department of Corrections;
- (e) to custodial or detention services managed by the New Zealand Police, the Department of Corrections, or the Ministry of Justice, or within a courthouse:

- (f) to the administration of sentences and orders by the Department of Corrections, or on its behalf, in accordance with the Corrections Act 2004;
- (g) to people being transported for the purposes of the Department of Corrections and New Zealand Police fulfilling their purposes and performing their functions and duties;
- (h) to the New Zealand Defence Force;
- (i) to the New Zealand Police;
- (j) to Fire and Emergency New Zealand.

27 Power for Director-General to grant exemptions from this order

- (1) The Director-General may exempt any class of persons, businesses, services, or goods (or person, business, or service) from the application of any provision of this order or from the requirement to comply with any provision of this order if the Director-General is satisfied that—
 - (a) the exemption is necessary or desirable in order to promote the purposes of the Act or the purposes of this order; and
 - (b) the extent of the exemption is not broader than is reasonably necessary to address the matters that gave rise to the exemption.
- (2) The Director-General may impose conditions on the exemption as the Director-General considers necessary.
- (3) The exemption must—
 - (a) be published on a publicly accessible Internet site maintained by or on behalf of the New Zealand Government; and
 - (b) be notified in the *Gazette*.

Schedule 1
Transitional, savings, and related provisions

cl 5

Part 1
Provisions relating to this order as made

1 Persons leaving alert level 3 area soon after commencement

- (1) A person is permitted do any of the following as essential personal movement (in addition to the permissions in clause 9) if they leave the alert level 3 area before 11:59pm on 14 August 2020:
 - (a) leave by aircraft if—
 - (i) they are returning to their principal home or place of residence in another place in New Zealand; and

- (ii) they wear a face covering while on the aircraft (except if the requirement does not apply under subclause (3)); and
 - (b) leave by any other means if they are returning to their principal home or place of residence in another place in New Zealand.
- (2) In this clause, a **face covering** includes a face mask or face shield designed, or made to be worn, over the nose and mouth to provide the wearer protection against infection.
- (3) The requirement in clause 1(a)(ii) does not apply if any of the following applies:
- (a) the person is under the age of 12 years:
 - (b) the person has a physical or mental health illness or condition or disability that makes wearing a face covering unsuitable:
 - (c) the person is communicating with a person who is deaf or hard of hearing and visibility of the mouth is essential for communication:
 - (d) the person is asked to remove the face covering to ascertain identity:
 - (e) there is an emergency:
 - (f) doing so is not safe in all the circumstances:
 - (g) removal or not wearing the face covering is otherwise required or authorised by law.

2 **Persons entering for the purpose of transiting through alert level 3 area soon after commencement**

A person may enter an alert level 3 area, despite clause 23, for the purpose of enabling them to travel through the alert level 3 area to return to their principal home or place of residence if they leave the alert level 3 area before 11:59 pm on 14 August 2020.

Schedule 2

Businesses and services

cls 4(1), 11

Part 1

Category A businesses or services

Number	Business or service
1	Border services provided by Immigration New Zealand, the New Zealand Customs Service, Maritime New Zealand, and the Ministry for Primary Industries.
2	Transport services provided by any small passenger service vehicle, rental car services, or car share services.
3	Early childhood services and schools.
4	New Zealand Parole Board.

Number	Business or service
5	Veterinary services and animal health and welfare services.
6	Civil defence emergency management services provided by the National Emergency Management Agency and Civil Defence Emergency Management Groups.

Part 2

Category B businesses

Number	Business or service
1	Supermarkets and dairies.
2	Petrol stations, including any stores operating as part of the petrol station.
3	Pharmacies.
4	Accommodation services.
5	Licensing trusts.
6	Hardware and DIY stores, but only for the purpose of sale to trade customers.

Schedule 3

Businesses or services for which interregional travel permitted for work purposes

cls 9(c)(ii), 23(b)

Number	Business or service
1	Justice sector, including Courts of New Zealand, Corrections facilities and related services, and tribunals (but note that this list does not affect the exclusion from the closure of premises in clause 10(2)(b)).
2	Parliament, including members of Parliament, parliamentary staff, and any officer of Parliament (but note that this list does not affect the exclusion from the closure of premises in clause 10(2)(b)).
3	Supply and delivery of goods.
4	Transport and logistics services provided at or through an aerodrome, passenger or freight aviation services, passenger or freight shipping services, road freight services, rail freight services, and public transport services (under contract with a territorial authority).
5	Civil defence emergency management services provided by the National Emergency Management Agency and Civil Defence Emergency Management Groups.
6	Border services provided by Immigration New Zealand, the New Zealand Customs Service, Maritime New Zealand, and the Ministry for Primary Industries.

Dated at Wellington this 12th day of August 2020.

Hon Chris Hipkins,
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 3 and 2) Order 2020. It comes into force at 11.59 am on 12 August 2020 (except for the requirements relating to displaying QR codes, which are deferred 11:59 am on 19 August 2020) as the Minister of Health is satisfied that it needs to come into force urgently to prevent or contain the outbreak or spread of COVID-19. The Minister of Health proposes to further review the application of the order no later than midnight on 14 August 2020.

This order applies in addition to the public health guidance and other requirements that can be applied under the Health Act 1956 (for example, the ability for a medical officer of health to require a person to be tested under Part 3 of that Act).

Part 1 of this order sets out the purpose of this order (*see clause 3*) and definitions used in the order (*see clause 4*).

The purpose of this order is to prevent, and limit the risk of, the outbreak or spread of COVID-19.

Clause 5 refers to the transitional, savings, and related provisions set out in *Schedule 1*.

Clause 6 provides that this order applies in New Zealand.

Alert level 3 requirements to prevent the outbreak or spread of COVID-19 in alert level 3 area

Part 2 of this order applies in the alert level 3 area, to any property if a part of it is in the alert level 3 area, and to any other place if necessary for the purposes of enforcing the measures in those 2 places (for example, to enable road blocks). The alert level 3 area means the boundaries of Auckland as determined by the Local Government (Auckland Boundaries) Determination 2010.

Clauses 8 and 9 set out the stay-at-home and physical distancing requirements in the alert level 3 area.

All people within that area must—

- remain at their current home or place of residence, except for essential personal movement; and
- maintain physical distancing to the greatest extent practicable. For the alert level 3 area, this means staying 2 metres away from other people, other than in certain businesses where people must stay 1 metre away from other people (*see the definition of level 3 physical distancing*); and
- if their home is mobile, keep that home in the same general location, except for essential personal movement.

A breach of these requirements is an infringement offence. These requirements do not apply to a person while the COVID-19 Public Health Response (Air Border) Order

2020 or the COVID-19 Public Health Response (Maritime Border) Order 2020 applies to that person.

Clause 9 sets out movements that are permitted as essential personal movement. These are the reasons for which a person is permitted to leave their current home or place of residence and include, in specified circumstances and subject to specified conditions,—

- accessing businesses and services:
- attending education entities:
- working:
- limited recreation purposes:
- limited customary purposes:
- controlled gatherings:
- extended bubble arrangements and shared caregiving arrangements:
- relocating premises:
- accessing medical services, visiting hospitals, accessing courts, emergencies, and court orders:
- travel home by managed arrivals or travel by visitors to leave New Zealand.

Clauses 10 and 11 set out the requirements for businesses and services. Premises in the alert level 3 area must be closed unless the business or service that controls those premises complies with specified requirements. Those requirements are set out in *clause 11* and differ, depending on whether the business or service is a Category A business or service, a Category B business or service, a public transport service, a venue business, or a Category C business or service.

Clause 12 prohibits outdoor gatherings in an alert level 3 area, other than an outdoor place that is a venue used for gatherings that has the relevant alert level 3 requirements in place.

Alert level 2 area

Part 3 of this order applies in all areas of New Zealand to which *Part 2* does not apply.

Clauses 14 to 19 set out the requirements for workplaces.

Clause 14 requires a person to comply with measures that are put in place by a business or service to meet the physical distancing and related requirements of this order and that have been notified to, or brought to the attention of, the person. Failure to comply with those measures is an infringement offence.

Clause 15 sets out which of *clauses 16 to 19* businesses and services must comply with.

Clause 16 sets out a list of general requirements that apply to all businesses or services (except to the extent that *clause 17* applies to them). This includes requirements that businesses and services must—

- ensure that all people who enter the workplace or use its services must remain 2 metres away from each other and from the workers:
- ensure that all workers must remain 1 metre away from each other:
- mitigate the risks that arise to the extent that physical distancing is not fully maintained:
- display a copy of the QR code (as defined in *clause 4*) for the business or service:
- have systems and processes in place to otherwise support contact tracing.

A breach of *clause 16* is an infringement offence.

The following businesses, services, and entities must comply with the specific controlled access requirements in *clause 17*:

- businesses or services that have a largely consistent group of workers and that usually have a fixed workplace (such as office workplaces and factories):
- businesses or services with customers or clients that are members of the business or service (such as gyms):
- public facilities located within a building or structure (such as swimming pools, libraries, and museums):
- event facilities such as cinemas, theatres, stadiums, concert venues, conference venues, and casinos:
- certain other businesses:
- courts and tribunals.

Businesses or services with workplaces that customers may enter and where food or drink is sold or provided to be consumed there (such as restaurants, cafes, and soup kitchens) must comply with the specific food and drink requirements in *clause 18*.

Businesses or services that cannot operate without physical contact or close proximity between people (such as massage and hairdressing services, small passenger services, and professional sports) must comply with the specific proximity requirements in *clause 19*.

Clauses 20 to 22 set out the requirements for social gatherings. (**Social gathering** is defined in *clause 4*.)

Clause 20 provides that people must not participate in a social gathering that exceeds 100 people in a defined space at any 1 time (not including workers who are providing services in relation to the gathering).

It is an infringement offence if an organiser of a social gathering, or a person in control of premises in which a social gathering is held, fails to ensure that the social gathering does not, and is not likely to, exceed 100 people.

Clause 22 requires the organiser of a social gathering, and the person in control of the premises in which a social gathering is held, to ensure that a specified person keeps records to enable contact tracing in relation to the social gathering. This does not apply if every person at the social gathering knows, and can identify for the purpose of contact tracing, every other person at the social gathering.

It is an infringement offence if people fail to ensure that a specified person keeps records to enable contact tracing in relation to the social gathering.

Prohibition on entering alert level 3 area

Clause 23 prohibits persons from entering the alert level 3 area unless they are returning to their principal home or place of residence in that area, it is necessary to do so for the purpose of providing a business or service listed in *Schedule 3*, or they are only directly transiting through the airport on a connecting flight out of the alert level 3 area.

Exemptions

Under *clause 23*, for the alert level 2 requirements in *Part 2*,—

- there is an exemption for people using public transport services; and
- people who attend an education entity are excluded as long as appropriate systems and processes are put in place to enable contact tracing of people and to mitigate the risks that arise where physical distancing is not maintained.

There is an exclusion from the application of this order for assisting in or responding to an emergency in *clause 24*.

Other exclusions from the application of this order apply to specified activities and services set out in *clause 25*.

A power to grant exemptions from any provision of this order is conferred on the Director-General of Health by *clause 26*, subject to the Director-General being satisfied that certain criteria are met.

Schedules

Schedule 1 is for transitional, savings, and related provisions. These include time-limited exclusions enabling people to return to their principal home or place of residence outside the alert level 3 area.

Schedule 2 sets out a list of category A businesses and services and category B businesses.

Schedule 3 sets out a list of businesses and services for which interregional travel is permitted for work purposes.

Reprints notes

1 *General*

This is a reprint of the COVID-19 Public Health Response (Alert Levels 3 and 2) 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 Levels 3 and 2) Order (No 2) 2020 (LI 2020/222): clause 35