

DRAFT FOR CONSULTATION

COVID-19 Public Health Response Bill

Government Bill

Explanatory note

General policy statement

This Bill is an omnibus Bill that amends more than 1 Act and is introduced under Standing Order 263(a) because the amendments deal with an interrelated topic that can be regarded as implementing a single broad policy. That single broad policy is to establish a fit-for-purpose legal framework for managing the unprecedented circumstances of the COVID-19 epidemic in a co-ordinated and orderly way, even if there is no longer a national state of emergency. To this end, this Bill establishes standalone legislation that provides a legal framework for responding to COVID-19 over the next 2 years or until COVID-19 is sooner brought under control.

In addition to this, the Bill—

- (a) will apply to all Alert Levels under the COVID-19 Alert Level Framework; and
- (b) addresses the need for some enforcement powers for certain restrictions that may be applied so that these restrictions do not rely on powers provided by a state of national emergency – at Alert Level 2 this may include gatherings and distancing; and
- (c) establishes decision-making processes that are more modern and consistent with recommended practice by legal academics and others; and
- (d) has limited retrospective effect to enable the Alert Level 2 order to be prepared and commence immediately, if needed; and
- (e) does not provide retrospective validation of actions already taken on previous orders.

The measures in the Bill take account of the particular characteristics of COVID-19 such as its contagious nature and potential for asymptomatic transmission, which creates the risk of spread and a need to impose restrictions at an aggregate as well as an individual level.

The Bill also amends the Civil Defence Emergency Management Act 2002. The objectives of those amendments are to ensure a nationally consistent approach to the response to and management of risks arising from COVID-19 and to better deal with concurrent emergencies during the COVID-19 response.

Purpose

The purpose of the Bill is to support a public health response to COVID-19 that—

- prevents, and limits the risk of, the outbreak or spread of COVID-19 (taking into account the asymptomatic and contagious nature of COVID-19); and
- avoids, mitigates, or remedies the actual or potential adverse effects of the COVID-19 outbreak (whether direct or indirect); and
- is co-ordinated, orderly, and proportionate; and
- has enforceable measures in addition to voluntary measures and public health and other guidance.

Power to set enforceable measures

The Bill aims to achieve this purpose by providing that, following the declaration of a state of emergency, the issuing of an epidemic notice, or an authorisation of the Prime Minister, the Minister of Health is given powers to issue orders to give effect to the public health response. This is a change to the position under the Health Act 1956, which made the Director-General of Health (exercising the powers of a medical officer of health) the decision maker for orders. The reasons for making the Minister of Health the decision maker are—

- it is more consistent with existing legislative conventions. The scale and wide-ranging implications (health, economic, and social) of the decision making lend themselves to ministerial-level accountability, where a wider range of ministerial portfolios can have input. This positions Cabinet and the Director-General of Health in a more conventional decision-making relationship:
- it allows for public health expertise to remain at the centre of decision making. It does this by providing that the Minister of Health is the decision maker, and requiring that the Minister of Health have regard to the advice of the Director-General of Health:
- it allows for a wider range of Ministerial portfolios to have input, while allowing the advice of the Director-General of Health to be focused on public health needs and medical expertise.

The power to make orders under the Bill—

- is broadly based on the powers in sections 70 and 92I of the Health Act 1956:
- can be expressly exercised in respect of classes of people, businesses, and other activities (such as sporting events, weddings, funerals, etc), and may apply nationally or to a specified area:

- allows for the same kind of measures to be put in place that have been imposed under the various Health Act 1956 orders to date and that are envisaged under the COVID-19 Alert Level Framework:
- contains the ability to place conditions on the controls made under the orders.

The Minister must be satisfied that the order is appropriate to achieve the purpose of the Bill.

Safeguards

The Bill includes a number of safeguards around the exercise of the Minister's power to issue orders. Before issuing an order, the Minister must have regard to advice from the Director-General of Health. The Minister must also have regard to any Government decision on the risks, and consult the Prime Minister, the Minister of Justice, and any other Minister that the Minister of Health thinks fit.

Orders are also disallowable instruments and will be automatically revoked if not confirmed by the House of Representatives. Orders must also be published in the *Gazette* and on an Internet site maintained by the New Zealand Government 48 hours prior to coming into force unless they need to come into force urgently to prevent or contain the outbreak or spread of COVID-19. Orders must also be presented to the House of Representatives as soon as practicable after they are made.

Enforcement

As with the orders made under the Health Act 1956, non-compliance with orders provided for in the Bill may result in imprisonment or a fine on conviction. A mental element (for example, the person acted intentionally) has been included in these offences to reflect the severity of conviction as a penalty. To further support the enforcement of health measures in the orders and to promote greater compliance, infringement offences have been added for non-compliance with orders. Businesses that do not comply with orders (for example, by not ensuring physical distance requirements are met by customers and staff) can be ordered to close for up to 24 hours. The policy objective underpinning these enforcement measures is to enable a graduated response approach to offending.

To enable enforcement of the measures in orders, the Police are given a power to enter premises, including private dwellinghouses and marae, without a warrant if they have reasonable grounds to believe that people have gathered there in contravention of an order and entry is necessary for the purpose of giving people a direction to comply with the order (for example, giving an order to disperse). Enforcement officers can enter without a warrant any premises other than private dwellinghouses and marae if they have reasonable grounds to believe that a person is failing to comply with any aspect of an order.

Departmental disclosure statement

The Department of Prime Minister and Cabinet is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides

access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at [PPU to insert URL and link] (if it has been provided for publication).

Regulatory impact assessment

The Treasury has determined that this Bill is a direct COVID-19 response and has suspended the RIA requirements (in accordance with CAB-20-MIN-0138).

Clause by clause analysis

Clause 1 relates to the Title.

Clause 2 relates to commencement. This Bill comes into force on Royal assent.

Part 1

Preliminary provisions

Clause 3 provides that the Bill is repealed on the earlier of the date that is 2 years after the date of its commencement and a date appointed by the Governor-General by Order in Council.

Clause 4 states that the purpose of the Bill is to support a public health response to COVID-19 that—

- prevents, and limits the risk of, the outbreak or spread of COVID-19 (taking into account the contagious nature and potential for asymptomatic transmission of COVID-19); and
- avoids, mitigates, or remedies the actual or potential adverse effects of the COVID-19 outbreak (whether direct or indirect); and
- is co-ordinated, orderly, and proportionate; and
- has enforceable measures in addition to the relevant voluntary measures and public health and other guidance.

Clause 5 defines certain terms used in the Bill.

Clause 6 provides that the transitional, savings, and related provisions set out in *Schedule 1* have effect according to their terms.

Clause 1 of Schedule 1 provides that certain orders made under section 70 of the Health Act 1956 prior to the commencement of this Bill continue in force as if made under the Bill for the purpose of being amended, extended or revoked.

Clause 2 of Schedule 1 provides that action taken by the Minister of Health or the Government in relation to a section 11 order prior to Royal assent are treated as having been taken by the relevant person under and for the purposes of this Bill (as if this Bill were already enacted and in force).

Clause 3 of Schedule 1 provides that existing proceedings are unaffected by this Bill.

Clause 4 of Schedule 1 provides for transitional matters relating to the amendment of the Civil Defence Emergency Management Act 2002.

Clause 7 provides that the Bill binds the Crown.

Part 2

Provisions to limit the risk of outbreak or spread of COVID-19

Subpart 1—Section 11 orders

Clause 8 sets out prerequisites for all orders made under *clause 11* (**section 11 orders**). An order may be made—

- while an epidemic notice under section 5 of the Epidemic Preparedness Act 2006 is in force for COVID-19; or
- while a state of emergency or transition period in respect of COVID-19 under the Civil Defence Emergency Management Act 2002 is in force; or
- if the Prime Minister, by notice in the *Gazette*, after being satisfied that there is a risk of outbreak or spread of COVID-19, has authorised the use of section 11 orders (either generally or specifically) and the authorisation is in force.

Clause 9 sets out prerequisites for section 11 orders made by the Minister of Health. The Minister—

- must have had regard to advice from the Director-General; and
- may have regard to any decision by the Government on how to respond to those risks and avoid, mitigate, or remedy the effects of the outbreak or spread of COVID-19 (which decision may have taken into account any social, economic, or other factors); and
- must consult the Prime Minister and the Minister of Justice, and may consult any other Minister that the Minister of Health thinks fit; and
- must be satisfied that the order is appropriate to achieve the purpose of this Bill.

Clause 10 enables the Director-General of Health to make section 11 orders that apply only within the boundaries of a single territorial authority district, are urgently needed to prevent or contain the outbreak or spread of COVID-19, and are the most appropriate way of addressing those matters at the time (as compared with an order made by the Minister of Health).

Clause 11 enables orders to be made for the purpose of dealing with the risk of the outbreak or spread of COVID-19. Two broad areas may be the subject of an order, as follows:

- an order may relate to actions of persons, by imposing requirements or prohibitions relating to matters including where they can stay, who they can associate with, physical distancing between individuals, carrying out activities involving close personal contact, circumstances requiring them to be isolated or quaran-

tined, their participation in gatherings, and medical examination or testing in specified circumstances. These requirements could relate to classes of people or corporate bodies or other entities:

- an order may relate to any places, premises, crafts, vehicles, animals, or other things, require actions to be taken, require compliance with any measures, or impose prohibitions relating to matters including their closure in specified circumstances, their entry into any port or place, gatherings in specified circumstances, their isolation, quarantine, or disinfection, or their testing.

The Minister's order can also specify which requirements or prohibitions (made by either the Minister or Director-General) are infringement offences for the purposes of *clause 25*.

Clause 12 contains general provisions that apply to orders under *clause 11*. In particular, orders may—

- impose different measures for different circumstances and different classes of persons or things:
- apply generally to all people in New Zealand or to any specified class of people in New Zealand:
- apply to any class of things or to all things for which a section 11 order may be made:
- apply to different areas (subject to the area limitation for section 11 orders made by Director-General):
- grant or provide for exemptions and authorisations.

However, no section 11 order may apply only to a specific individual or close premises described in section 70(1A) of the Health Act 1956, namely, a private dwelling-house, any premises within the parliamentary precincts, a courtroom or Judge's chambers, a court registry, or a prison.

Clause 13 states the legal effect of orders under *clause 11*. An order may not be held invalid just because it is inconsistent with the Health Act 1956 or any other enactment relevant to the subject matter of the order, or it confers any discretion on any person. However, a section 11 order—

- does not limit or affect the application of the New Zealand Bill of Rights Act 1990:
- does not prevent the filing, hearing, or determination of legal proceedings in relation to the making or terms of an order.

Subpart 2—Further provisions relating to section 11 orders

Form of orders, etc

Clause 14 states formal requirements that apply to section 11 orders, including requirements about their publication and duration. A section 11 order made by the Director-General expires 1 month after it comes into force, unless it is sooner revoked

or extended. There is no automatic expiry for orders made by the Minister, but orders must be kept under review (and see *clause 16* for the requirement for Parliamentary approval for an order to continue).

Clause 15 provides for the amendment or extension of orders.

Parliamentary approval

Clause 16 provides that a section 11 order made by the Minister is revoked (unless it is earlier revoked) on the expiry of the relevant period specified in the clause if no motion to approve the order is agreed to by the House of Representatives within that period.

Application of Legislation Act 2012

Clause 17 provides that section 11 orders are disallowable instruments for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives as soon as practicable.

Subpart 3—Enforcement, offences, and penalties

Authorised persons

Clause 18 provides for the authorisation of persons, and classes of persons, for the purpose of enforcing section 11 orders.

Clause 19 requires enforcement officers who are not constables in uniform to produce evidence of their identity when exercising powers under this Bill.

Enforcement

Clause 20 provides enforcement officers with powers of entry to enforce compliance with orders. An enforcement officer can enter, without a warrant, any land, building, ship, aircraft, or any other place or thing if they have reasonable grounds to believe that a person is failing to comply with any aspect of an order. However, entry onto a private dwellinghouse or marae without warrant is permitted only by a constable and if the constable has reasonable grounds to believe that people have gathered there in contravention of an order and entry is necessary for the purpose of giving a direction under *clause 21*.

Clause 21 enables enforcement officers to give directions to enforce compliance with orders.

Clause 22 enables constables (or persons acting under the authority of a constable) to close roads and public places for the purpose of enforcing related measures contained in a section 11 order. This clause also enables constables to stop vehicles for the purpose of enforcing an order that provides for restriction of movement.

Clause 23 enables enforcement officers to direct persons to provide identifying information.

Clause 24 enables enforcement officers to close businesses and undertakings that are operating in contravention of an order or contrary to any conditions imposed on their operation by an order. Closure may not exceed 24 hours in duration. This clause provides a right of appeal to a District Court Judge against the order to close the business or undertaking, which is based on the right of appeal in section 266 of the Sale and Supply of Alcohol Act 2012 against the closure of licensed premises.

Offences

Clause 25 creates a criminal offence of intentionally failing to comply with a section 11 order and the penalty is imprisonment for up to 6 months or a fine of up to \$4,000. This clause also creates an infringement offence of failing to comply with a section 11 order and the penalty is an infringement fee of \$300 or a fine imposed by a court not exceeding \$1,000.

Clause 26 creates offences relating to the exercise of enforcement powers. The penalties for these offences are the same as the penalties for a criminal offence under *clause 25*.

Provisions relating to infringement offences

Clauses 27 to 31 contain standard provisions relating to infringement offences. *Schedule 3* sets out forms for infringement notices and reminder notices, which apply in the absence of forms prescribed by regulations made under *clause 32*.

Subpart 4—Miscellaneous provisions

Clause 32 contains regulation-making powers relating to forms for infringement notices and reminder notices, and to administrative matters.

Clause 33 applies section 129 of the Health Act 1956 to persons acting under the authority of this legislation and confers on those persons immunity against civil and criminal proceedings (except when acting in bad faith or without reasonable care).

Part 3

Amendments to Civil Defence Emergency Management Act 2002

Clause 34 provides that *Part 3* amends the Civil Defence Emergency Management Act 2002 (the **Act**). Each of these amendments is repealed automatically when this Bill is repealed.

Clause 35 amends section 66 of the Act to provide that, if a state of national emergency for COVID-19 is declared after the commencement of this clause, any local state of emergency for other emergencies that are not related to COVID-19 are not terminated.

Clause 36 amends section 68 of the Act to require the approval of the responsible Minister before a state of local emergency may be declared under section 68 for COVID-19. This will not prevent a state of local emergency being declared for any other emergency that is not related to COVID-19.

Clause 37 amends section 94B of the Act to prevent notice of a local transition period being given for any part of New Zealand for COVID-19 without the prior approval of the responsible Minister. This will not prevent notice of a local transition period being given for any other purpose.

Clause 38 amends section 94E of the Act to provide that a national transition period that relates to COVID-19 is not terminated if a state of local emergency is declared as a result of an emergency that is not related to COVID-19.

Part 4

Amendment to Oranga Tamariki Act 1989

Clause 39 provides that *Part 4* amends the Oranga Tamariki Act 1989 (the **Act**).

Clause 40 amends section 272 of the Act, which relates to the jurisdiction of the Youth Court and children's liability to be prosecuted for criminal offences. This clause amends section 272 in relation to the Youth Court's jurisdiction over infringement offences against this Bill. If a young person is charged with an infringement offence against this Bill and any other offence for which the young person is required to be brought before the Youth Court to be dealt with, and the offences arise out of the same event or series of events, the offences are dealt with by the Youth Court.

Hon David Parker

COVID-19 Public Health Response Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the COVID-19 Public Health Response Act **2020**.

2 Commencement

This Act comes into force on Royal assent.

Part 1

Preliminary provisions

3 Repeal of this Act

This Act is repealed on the earlier of—

- (a) the date that is 2 years after the date of its commencement; and
- (b) a date appointed by the Governor-General by Order in Council.

4 Purpose

The purpose of this Act is to support a public health response to COVID-19 that—

- (a) prevents, and limits the risk of, the outbreak or spread of COVID-19 (taking into account the contagious nature and potential for asymptomatic transmission of COVID-19); and
- (b) avoids, mitigates, or remedies the actual or potential adverse effects of the COVID-19 outbreak (whether direct or indirect); and
- (c) is co-ordinated, orderly, and proportionate; and
- (d) has enforceable measures, in addition to the relevant voluntary measures and public health and other guidance that also support that response.

5 Interpretation

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

authorised person means a person authorised under **section 18**

Commissioner has the meaning given to it by section 4 of the Policing Act 2008

constable has the meaning given to it by section 4 of the Policing Act 2008

Director-General means the Director-General of Health

district has the meaning given to it by section 5(1) of the Local Government Act 2002

enforcement officer means—

- (a) the Director-General;
- (b) a medical officer of health appointed under the Health Act 1956 for a health district;
- (c) a constable;
- (d) in relation to any function or power, a person authorised to perform that function or power under **section 18** or a person in a class of persons authorised to perform that function or power under **section 18**

infringement offence means an infringement offence against **section 25(3)**

Minister means the Minister of Health

New Zealand includes all waters within the outer limits of the territorial sea of New Zealand (as defined by section 3 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977)

Police uniform has the meaning given to it by section 4 of the Policing Act 2008

premises includes any commercial premises and private premises

public place has the meaning given to it by section 2(1) of the Summary Offences Act 1981

road has the meaning given to it by section 35(2) of the Policing Act 2008

section 11 order means an order made by the Minister or the Director-General under **section 11**

territorial authority has the meaning given to it by section 5(1) of the Local Government Act 2002.

- (2) Terms and expressions used and not defined in this Act, but defined in the Health Act 1956, have the same meanings as in the Health Act 1956.

6 Transitional, savings, and related provisions

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

7 Act binds the Crown

This Act binds the Crown.

Part 2

Provisions to limit the risk of outbreak or spread of COVID-19

Subpart 1—Section 11 orders

8 Prerequisites for all section 11 orders

A **section 11** order may be made under this Act only—

- (a) while an epidemic notice under section 5 of the Epidemic Preparedness Act 2006 is in force for COVID-19; or
- (b) while a state of emergency or transition period in respect of COVID-19 under the Civil Defence Emergency Management Act 2002 is in force; or
- (c) if the Prime Minister, by notice in the *Gazette*, after being satisfied that there is a risk of an outbreak or the spread of COVID-19, has authorised the use of **section 11** orders (either generally or specifically) and the authorisation is in force.

9 Minister may make section 11 orders

- (1) The Minister may make a **section 11** order in accordance with the following provisions:
 - (a) the Minister must have had regard to advice from the Director-General about—
 - (i) the risks of the outbreak or spread of COVID-19; and
 - (ii) the nature and extent of measures (whether voluntary or enforceable) that are appropriate to address those risks; and
 - (b) the Minister may have had regard to any decision by the Government on how to respond to those risks and avoid, mitigate, or remedy the effects of the outbreak or spread of COVID-19 (which decision may have taken into account any social, economic, or other factors); and
 - (c) the Minister must have consulted the Prime Minister and the Minister of Justice, and may have consulted any other Minister that the Minister of Health thinks fit; and
 - (d) before making the order, the Minister must be satisfied that the order is appropriate to achieve the purpose of this Act.
- (2) Nothing in this section requires the Minister to receive specific advice from the Director-General about the content of a proposed order or proposal to amend, extend, or revoke an order.

10 Director-General may make section 11 orders

The Director-General may make a **section 11** order that meets both of the following requirements:

- (a) the order may apply only within the boundaries of a single territorial authority district:
- (b) in the opinion of the Director-General, the order—
 - (i) is urgently needed to prevent or contain the outbreak or spread of COVID-19; and
 - (ii) is the most appropriate way of addressing those matters at the time.

11 Orders that can be made under this Act

- (1) An order made by the Minister or the Director-General (as the case may be) under this section may do 1 or more of the following things:
 - (a) require persons to refrain from taking any actions that contribute or are likely to contribute to the risk of the outbreak or spread of COVID-19, or require persons to take any actions, or comply with any measures, that contribute or are likely to contribute to preventing the risk of the outbreak or spread of COVID-19, including (without limitation) requiring persons to do any of the following:
 - (i) stay in any specified place or refrain from going to any specified place:
 - (ii) refrain from associating with specified persons:
 - (iii) stay physically distant from any persons in any specified way:
 - (iv) refrain from travelling to or from any specified area:
 - (v) refrain from carrying out specified activities (for example, business activities involving close personal contact) or require specified activities to be carried out only in any specified way or in compliance with specified measures:
 - (vi) be isolated or quarantined in any specified place or in any specified way:
 - (vii) refrain from participating in gatherings of any specified kind, in any specified place, or in specified circumstances:
 - (viii) report for medical examination or testing in any specified way or in any specified circumstances:
 - (b) in relation to any places, premises, crafts, vehicles, animals, or other things, require actions to be taken, require compliance with any measures, or impose prohibitions that contribute or are likely to contribute to preventing the risk of the outbreak or spread of COVID-19, including (without limitation) any of the following:
 - (i) require things to be closed or only open if specified measures are complied with:

- (ii) prohibit things from entering any port or place, or permit the entry of things into any port or place only if specified measures are complied with:
 - (iii) prohibit gatherings of any specified kind in any specified places or premises, or in any specified circumstances:
 - (iv) require things to be isolated, quarantined, or disinfected in any specified way or specified circumstances:
 - (v) require the testing of things in any specified way or specified circumstances.
- (2) An order made by the Minister may specify which breaches of an order made by the Minister or the Director-General are infringement offences for the purposes of **section 25(3)**.

12 General provisions relating to **section 11** orders

- (1) A **section 11** order may—
- (a) impose different measures for different circumstances and different classes of persons or things:
 - (b) apply,—
 - (i) in relation to people, generally to all people in New Zealand or to any specified class of people in New Zealand:
 - (ii) in relation to things that can be specified under **section 11**, to any class of those things or to all of those things:
 - (iii) in relation to anything else,—
 - (A) generally throughout New Zealand:
 - (B) in any area, however described:
 - (c) exempt (with or without conditions) from compliance with or the application of any provisions of the order any person or class of persons or things:
 - (d) authorise any person or class of persons to—
 - (i) grant an exemption (with or without conditions) referred to in **paragraph (c)**; or
 - (ii) authorise (with or without conditions) a specified activity that would otherwise be prohibited by the order:
 - (e) if any thing can be prohibited under **section 11**, permit that thing but only subject to specified conditions.
- (2) However, a **section 11** order—
- (a) may not apply only to a specific individual:
 - (b) if made by the Director-General, may apply only within the boundaries of a single territorial authority district:

- (c) may not be made under **section 11(b)(i)** in relation to the following premises:
 - (i) any premises that are, or any part of any premises that is, used solely as a private dwellinghouse:
 - (ii) any premises within the parliamentary precincts (within the meaning of section 3 of the Parliamentary Service Act 2000):
 - (iii) any premises whose principal or only use is as a courtroom or Judge’s chambers, or a court registry:
 - (iv) any premises that are, or are part of, a prison (within the meaning of section 3(1) of the Corrections Act 2004).

13 Effect of **section 11** orders

- (1) A **section 11** order may not be held invalid just because—
 - (a) it is, or authorises any act or omission that is, inconsistent with the Health Act 1956 or any other enactment relevant to the subject matter of the order; or
 - (b) it confers any discretion on, or allows any matter to be determined, approved, or exempted by any person.
- (2) However, **subsection (1)(a)** does not limit or affect the application of the New Zealand Bill of Rights Act 1990.
- (3) To avoid doubt, nothing in this Act prevents the filing, hearing, or determination of any legal proceedings in respect of the making or terms of any **section 11** order.

Subpart 2—Further provisions relating to **section 11** orders

Form of orders, etc

14 Form, publication, and duration of **section 11** orders

- (1) A **section 11** order must—
 - (a) be in writing; and
 - (b) state the area to which it applies; and
 - (c) state when it comes into force.
- (2) A **section 11** order must, at least 48 hours before it comes into force,—
 - (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*.
- (3) However, the Minister or Director-General (as the case may be) need not comply with the 48-hour time limit in **subsection (2)** if satisfied that the order should come into force urgently to prevent or contain the outbreak or spread of

COVID-19, but in that case must comply with **subsection (2)(a) and (b)** as soon as practicable.

- (4) A **section 11** order made by the Director-General expires 1 month after the date on which it comes into force, unless it is sooner revoked or extended.
- (5) The Minister and the Director-General must keep their **section 11** orders under review.

15 Amendment or extension of section 11 orders

- (1) The Minister may, at any time, amend, extend, or revoke any **section 11** order made by the Minister.
- (2) The Director-General may, at any time, amend, extend by up to 1 month on each occasion, or revoke any **section 11** order made by the Director-General.
- (3) The Minister may, at any time, revoke any **section 11** order made by the Director-General.
- (4) Requirements that apply in relation to the making of a **section 11** order also apply, with all necessary modifications, in relation to its amendment or extension.

Parliamentary approval

16 Section 11 order made by Minister revoked if not approved by House of Representatives

- (1) A **section 11** order made by the Minister is revoked (unless it is earlier revoked) on the expiry of the relevant period if no motion to approve the order is agreed to by the House of Representatives within that period.
- (2) The **relevant period** is the longer of the following:
 - (a) the period of 10 sitting days of the House of Representatives after the date on which the order is made:
 - (b) the period of 60 days after the date on which the order is made:
 - (c) any other period specified by a resolution of the House of Representatives.
- (3) An order that is revoked under **subsection (1)** immediately ceases to be of any effect unless a motion of the House provides otherwise.
- (4) Revocation under **subsection (1)** does not affect the validity of any action taken to give effect to or enforce the order.

Application of Legislation Act 2012

17 Section 11 orders to be disallowable instruments

A **section 11** order is a disallowable instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives as soon as practicable.

Subpart 3—Enforcement, offences, and penalties

Authorised persons

18 Authorised persons

- (1) The Director-General may authorise a suitably qualified and trained person who is not an employee of the Ministry of Health, or a class of suitably qualified and trained persons who are not employees of the Ministry of Health, to carry out any functions and powers of an enforcement officer under this Act.
- (2) An authorisation under **subsection (1)** must—
 - (a) be in writing; and
 - (b) specify—
 - (i) the authorised person or the class of persons; and
 - (ii) the functions and powers that may be carried out by the authorised person or class of persons; and
 - (iii) the term of the authorisation.
- (3) The Director-General may renew any authorisation given under **subsection (1)**.
- (4) The Director-General may revoke an authorisation given under this section—
 - (a) in the case of an individual, for incapacity, neglect of duty, or misconduct; or
 - (b) in the case of an individual, on the written request of the authorised person; or
 - (c) if the Director-General considers that the authorisation is no longer necessary or desirable.
- (5) If a person ceases to be an authorised person, they must surrender to the Director-General all articles and documents received by the person in relation to the authorisation.

19 Evidence of identity

Every enforcement officer (other than a constable in Police uniform) exercising any of the powers conferred by or under this Act must, at the time of exercising that power, and subsequently on request, produce—

- (a) evidence of that person's appointment as an enforcement officer; and
- (b) evidence of that person's identity.

*Enforcement***20 Powers of entry**

- (1) An enforcement officer may enter, without a warrant, any land, building, craft, vehicle, place, or thing if they have reasonable grounds to believe that a person is failing to comply with any aspect of a **section 11** order.
- (2) However, **subsection (1)** does not apply to a private dwellinghouse or marae.
- (3) A constable may enter a private dwellinghouse or marae without warrant only if they have reasonable grounds to believe that people have gathered there in contravention of a **section 11** order and entry is necessary for the purpose of giving a direction under **section 21**.
- (4) A constable exercising a power of entry under this section may use reasonable force in order to effect entry into or onto the land, building, craft, vehicle, place, or thing if, following a request, a person present refuses entry or does not allow entry within a reasonable time.
- (5) Any constable who exercises a warrantless entry power under this section must provide a written report on the exercise of that power to the Commissioner or a Police employee designated to receive reports of that kind by the Commissioner, as soon as practicable after exercising the power.
- (6) Any enforcement officer (other than a constable) who exercises a warrantless entry power under this section must provide a written report on the exercise of that power to the Director-General, or an employee designated to receive reports of that kind by the Director-General, as soon as practicable after exercising the power.
- (7) A report referred to in **subsection (5) or (6)** must contain—
 - (a) a short summary of the circumstances surrounding the exercise of the power, and the reason or reasons why the power needed to be exercised; and
 - (b) a description of any other action undertaken.

21 Power to give directions

An enforcement officer who has reasonable grounds to believe that a person is contravening or likely to contravene a **section 11** order may—

- (a) direct any person to stop any activity that is contravening or likely to contravene the order;
- (b) direct any person, either verbally or in writing, to take any action to prevent or limit the extent of the person's non-compliance.

22 Power to close roads and public places and stop vehicles

- (1) **Subsection (2)** applies if a **section 11** order provides for the total or partial prohibition or restriction of public access, with or without vehicles, to any road

or public place within an area specified in the order for the purpose of this section.

- (2) For the purpose of enforcing those measures contained in the order, a constable or person acting under the authority of the constable may totally or partially prohibit or restrict public access, with or without vehicles, to any road or public place in that area.
- (3) For the purpose of a **section 11** order that provides for restriction of movement, a constable may stop a vehicle.
- (4) Sections 128 and 129 of the Search and Surveillance Act 2012 (duty to remain stopped and to provide information), with any necessary modifications, apply to the powers conferred by **subsection (3)** and apply in addition to the requirement to provide evidence of identity in **section 19**.

23 Power to direct person to provide identifying information

For the purpose of exercising powers under this subpart, an enforcement officer may direct a person to give the person's full name, full address, date of birth, occupation, and telephone number, or any of those particulars that the enforcement officer or other person acting with authority may specify.

24 Power to direct business or undertaking to close

- (1) An enforcement officer who has reasonable grounds to believe that a business or undertaking, or part of a business or undertaking, is operating in contravention of a **section 11** order or contrary to any conditions imposed on its operation by a **section 11** order may direct any person who appears to be in charge of the business or undertaking, or that part, to close and cease operation until a later time stated in the direction that does not exceed 24 hours after it is given.
- (2) As soon as a direction is given, the owner or manager or person to whom it is given may appeal to a District Court Judge for the revocation of the direction.
- (3) The Judge—
 - (a) may revoke the direction either unconditionally or subject to any conditions that they think fit to impose; or
 - (b) may refuse to revoke the direction.
- (4) The filing of an appeal does not suspend, interfere with, or affect the application of the direction concerned.

Offences

25 Offences relating to compliance with orders

- (1) A person commits an offence if the person intentionally fails to comply with a **section 11** order.

-
- (2) A person who commits an offence against **subsection (1)** is liable on conviction to—
 - (a) imprisonment for a term not exceeding 6 months; or
 - (b) a fine not exceeding \$4,000.
 - (3) A person commits an infringement offence if the person does anything specified as an infringement offence in a **section 11** order.
 - (4) A person who commits an infringement offence is liable to—
 - (a) an infringement fee of \$300; or
 - (b) a fine imposed by a court not exceeding \$1,000.

26 Offences relating to exercise of enforcement powers

- (1) A person commits an offence if the person obstructs or intentionally threatens, assaults, or hinders an enforcement officer in the exercise or performance of powers or functions under **sections 20 to 24**.
- (2) A person commits an offence if the person intentionally fails to comply with a direction, prohibition, or restriction given or imposed under any of **sections 21 to 24**.
- (3) A person commits an offence if the person—
 - (a) fails to stop as soon as practicable when required to do so by a constable exercising the power under **section 22(3)** to stop a vehicle; and
 - (b) knows or ought reasonably to have known that the person exercising the power is a constable.
- (4) A person who commits an offence against any of **subsections (1) to (3)** is liable on conviction to—
 - (a) imprisonment for a term not exceeding 6 months; or
 - (b) a fine not exceeding \$4,000.

Provisions relating to infringement offences

27 Proceedings for infringement offences

- (1) A person who is alleged to have committed an infringement offence may—
 - (a) be proceeded against by the filing of a charging document under section 14 of the Criminal Procedure Act 2011; or
 - (b) be served with an infringement notice issued under **section 29**.
- (2) If an infringement notice has been issued under **section 29**, proceedings for the offence to which the notice relates may be commenced in accordance with section 21 of the Summary Proceedings Act 1957, and in that case the provisions of that section apply with all necessary modifications.

28 Who may issue infringement notices

An enforcement officer may issue infringement notices under this Act.

29 Infringement notices

- (1) An enforcement officer may issue an infringement notice to a person if the officer believes on reasonable grounds that the person is committing, or has committed, an infringement offence.
- (2) The enforcement officer may deliver the infringement notice (or a copy of it) in person to the person alleged to have committed an infringement offence or send the notice by post addressed to that person's last known place of residence or business.
- (3) An infringement notice (or a copy of it) sent by post to a person under **subsection (2)** is to be treated as having been served on that person when it was posted.
- (4) An infringement notice must be in the form prescribed by regulations made under **section 32** or (in the absence of a form prescribed by regulations) in form 1 set out in **Schedule 3**.

30 Reminder notices

A reminder notice must be in the form prescribed by regulations made under **section 32** or (in the absence of a form prescribed by regulations) in form 2 set out in **Schedule 3**.

31 Payment of infringement fees

All infringement fees paid in respect of infringement offences must be paid into a Crown Bank Account.

Subpart 4—Miscellaneous provisions

32 Regulations

The Governor-General may, by Order in Council, make regulations—

- (a) prescribing the form of infringement notices and reminder notices, and the information to be included in the notices;
- (b) providing for any other matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect.

33 Protection of persons acting under authority of this Act

- (1) Section 129 of the Health Act 1956 (which relates to the protection of persons acting under authority of that Act) applies as if that Act included a reference to this Act.
- (2) However, this section does not limit any other protections from liability that apply under any other enactment.

Part 3

Amendments to Civil Defence Emergency Management Act 2002

34 Amendments to Civil Defence Emergency Management Act 2002

This Part amends the Civil Defence Emergency Management Act 2002.

35 Section 66 amended (Minister may declare state of national emergency)

After section 66(3), insert:

- (4) Despite subsection (3), if a state of national emergency for COVID-19 is declared after the commencement of this subsection, subsection (3) does not terminate any local state of emergency for other emergencies that are not related to COVID-19.
- (5) **Subsection (4)** is repealed when the COVID-19 Public Health Response Act **2020** is repealed.

36 Section 68 amended (Declaration of state of local emergency)

After section 68(5), insert:

- (6) Nothing in this section authorises a state of local emergency to be declared for COVID-19 without the prior approval of the Minister, but this subsection does not prevent a state of local emergency being declared for any purpose that is not related to COVID-19.
- (7) Despite subsection (5), if a state of national emergency is in force for COVID-19, subsection (5) does not prevent a state of local emergency being declared for any other emergency that is not related to COVID-19.
- (8) **Subsections (6) and (7)** are repealed when the COVID-19 Public Health Response Act **2020** is repealed.

37 Section 94B amended (Notice of local transition period)

After section 94B(11), insert:

- (12) Nothing in this section authorises notice of a local transition period to be given for any part of New Zealand for COVID-19 without the prior approval of the Minister, but this subsection does not prevent notice of a local transition period being given for any other purpose.
- (13) Despite subsection (11), if a national transition period is in force for COVID-19, subsection (11) does not prevent a local transition period being given for any other emergency that is not related to COVID-19.
- (14) **Subsections (12) and (13)** are repealed when the COVID-19 Public Health Response Act **2020** is repealed.

38 Section 94E amended (Termination of transition periods)

After section 94E(7), insert:

- (8) Subsection (7) does not terminate any national transition period that relates to COVID-19 if a state of local emergency is declared as a result of an emergency that is not related to COVID-19.
- (9) **Subsection (8)** is repealed when the COVID-19 Public Health Response Act **2020** is repealed.

Part 4

Amendment to Oranga Tamariki Act 1989

39 Amendment to Oranga Tamariki Act 1989

This Part amends the Oranga Tamariki Act 1989.

40 Section 272 amended (Jurisdiction of Youth Court and children’s liability to be prosecuted for criminal offences)

- (1) After section 272(3)(ba), insert:
 - (bb) an infringement offence against the COVID-19 Public Health Response Act **2020**; or
- (2) In section 272(5), replace “Notwithstanding subsection (3)(ba) or (c), or (d), where a young person is charged with an infringement offence referred to in subsection (3)(ba) or a traffic offence that is an infringement offence referred to in subsection (3)(c) or an infringement offence referred to in subsection (3)(d)” with “Notwithstanding subsection (3)((ba), **(bb)**, (c), or (d), where a young person is charged with an infringement offence referred to in subsection (3)(ba) or an infringement offence against the COVID-19 Public Health Response Act **2020** referred to in subsection (3)**(bb)** or a traffic offence that is an infringement offence referred to in subsection (3)(c) or an infringement offence referred to in subsection (3)(d)”.

Schedule 1

Transitional, savings, and related provisions

s 6

Part 1

Provisions relating to this Act as enacted

1 Orders made under section 70 of Health Act 1956

- (1) Every order made under section 70 of the Health Act 1956 that is listed in **Schedule 2** and every amendment or extension of the order—
 - (a) continues in force as if made under this Act for the purposes of amending, extending, or revoking it; and
 - (b) may be amended, extended, or revoked by a **section 11** order.
- (2) To avoid doubt, nothing in this Act prevents the filing, hearing, or determination of any legal proceedings in respect of the making or terms of any order listed in **Schedule 2**.

2 Section 11 order may be prepared before enactment or commencement of this Act

- (1) Any action taken before the enactment or commencement of this Act by or on behalf of the Minister or Director-General or the Government in relation to a **section 11** order must be treated as having been taken by the relevant person under and for the purposes of this Act (as if this Act was already enacted and in force).
- (2) However, **section 14(2)** does not apply to the first **section 11** order made under this Act.

3 Existing proceedings

Nothing in this Act affects any proceedings commenced before the commencement of this Act, and those proceedings must be decided as if this Act had not been enacted.

4 Application of amendments to Civil Defence Emergency Management Act 2002

- (1) **Section 68(7)** of the Civil Defence Emergency Management Act 2002 applies in relation to a state of national emergency that is already in force at the commencement of that provision as if that provision were in force when the emergency was declared.
- (2) **Section 94E(8)** of the Civil Defence Emergency Management Act 2002 applies in relation to a national transition period relating to COVID-19 that is already in force at the commencement of that provision as if that provision were in force when notice of the transition period was given.

Schedule 2**Orders under section 70 of Health Act 1956 relating to COVID-19****Schedule 1**

Date	Description or title of order
31 March 2020	Section 70(1)(f) notice to arrivals
9 April 2020	Section 70(1)(e), (ea) and (f) notice to arrivals
24 April 2020	Health Act (COVID-19 Alert Level 3) Order 2020 (LI 2020/69)

Schedule 3
Infringement notice and reminder notice

ss 29, 30

Form 1
Infringement notice

Section 29, COVID-19 Public Health Response Act 2020

Infringement notice No:

Date of notice:

Enforcement authorityThis infringement notice is issued by [*name or identification number of authorised person*].

Address for correspondence:

Details of person to whom infringement notice issued

Full name:

Full address:

†Date of birth:

*†Gender:

*†Occupation:

*Telephone number:

†Not required if the notice is served on a company or other body corporate.

*Specify only if known.

Alleged infringement offence detailsThe offence is one against [*specify provision*].

Date:

Time:

Place:

Nature of alleged infringement:

Infringement fee payable:

Service detailsThis infringement notice was served by [*method of service*] at [*full address of service*] on [*date*].

Payment of infringement fee

The infringement fee is payable within 28 days after [*date infringement notice served*].

The infringement fee may be paid to [*name of enforcement authority*] by [*specify method(s)*].

Information

If there is anything in these notes you do not understand, you should consult a lawyer.

1 This notice sets out an alleged infringement offence.

Payments

2 If you pay the infringement fee for the alleged infringement offence within 28 days after you are served with this notice, no further enforcement action will be taken for the offence. Payments should be made to [*name of enforcement authority*] in the manner specified in this notice.

3 If, under section 21(3A) or (3C)(a) of the Summary Proceedings Act 1957, you enter or have entered into an arrangement with [*name of enforcement authority*] allowing you to pay the infringement fee by instalments, paragraphs 5(b) and (c) and 6 to 9 below do not apply, and you are not entitled to request a hearing to deny liability or to ask the court to consider any submissions (as to penalty or otherwise) in respect of the infringement.

Defence

4 You have a complete defence against proceedings for an alleged infringement offence if the infringement fee has been paid to [*name of enforcement authority*] in the manner specified in this notice before, or within 28 days after, you are served with a reminder notice in respect of the alleged offence. Late payment or payment made in any other manner is not a defence.

Further action, including right to request hearing

5 You may—

- (a) raise any matter relating to the circumstances of the alleged offence for consideration by [*name of enforcement authority*]; or
- (b) deny liability for the alleged offence and request a court hearing; or
- (c) admit liability for the alleged offence but have a court consider written submissions as to penalty or otherwise.

6 To take an action listed in paragraph 5, you must write to [*name of enforcement authority*] at the address for correspondence shown on this notice. You must sign the letter and it must be delivered within 28 days after you are served with this notice, or within any further time that [*name of enforcement authority*] allows.

- 7 If, in your letter, you deny liability for the alleged offence and request a court hearing, [*name of enforcement authority*] will serve you with a notice of hearing that sets out the place and time at which the court will hear the matter (unless [*name of enforcement authority*] decides to take no further action to require payment for the alleged offence).

Note: If the court finds you guilty of the offence, the court is entitled to take into account any maximum fine for the offence, not just the infringement fee. In that case, the court may impose a fine that is greater than the infringement fee (but you still cannot get a conviction). Also, if the court finds you guilty of the offence, costs will be imposed in addition to any penalty, and you will be required to pay a hearing fee.

- 8 If you admit liability for the alleged offence but want the court to consider your submissions as to penalty or otherwise, you must, in your letter,—
- (a) request a hearing; and
 - (b) admit liability for the offence; and
 - (c) set out the written submissions you wish the court to consider.

- 9 [*Name of enforcement authority*] will then file your letter with the court (unless [*name of enforcement authority*] decides to take no further action to require payment for the alleged offence). If you follow this process, there will be no oral hearing before the court.

Note: The court is entitled to take into account any maximum fine for the offence, not just the infringement fee. In that case, the court may impose a fine that is greater than the infringement fee (but you still cannot get a conviction). Also, costs will be imposed in addition to any penalty.

Non-payment of fee

- 10 If you do not pay the infringement fee and do not request a hearing in respect of the alleged offence within 28 days after you are served with this notice or within any further time that [*name of enforcement authority*] allows, you will be served with a reminder notice (unless [*name of enforcement authority*] decides to take no further action to require payment for the alleged offence). Please note that in some circumstances, if you do not receive a reminder notice, you may still become liable to pay a fine and court costs.
- 11 If you do not pay the infringement fee and do not request a hearing in respect of the alleged offence within 28 days after you are served with the reminder notice,—
- (a) [*name of enforcement authority*] may, unless it decides to take no further action to require payment for the alleged offence, provide particulars of the reminder notice for filing in the District Court; and
 - (b) if so, you will become liable to pay court costs as well as a fine.

- 12 The fine will be equal to the amount of the infringement fee or the amount of the infringement fee remaining unpaid.

Correspondence

- 13 When writing, please specify—
- (a) the date of the alleged infringement offence; and
 - (b) the infringement notice number; and
 - (c) your full name and address for replies.

Note: All correspondence regarding the infringement offence must be directed to [*name of enforcement authority*] at the address shown on this notice.

Further details of your rights and obligations

- 14 Further details of your rights and obligations are set out in section 21 of the Summary Proceedings Act 1957.

Form 2
Reminder notice

Section 30, COVID-19 Public Health Response Act 2020

Reminder notice No:

Date of notice:

This notice is to remind you that you have been issued with an infringement notice. The details of the infringement notice are as follows.

Enforcement authority

The infringement notice was issued by [*name or identification number of authorised person*].

Address for correspondence:

Details of person to whom infringement notice issued

Full name:

Full address:

†Date of birth:

*†Gender:

*†Occupation:

*Telephone number:

†Not required if the notice is served on a company or other body corporate.

*Specify only if known.

Alleged infringement offence details

The offence is one against [*specify provision*].

Date:

Time:

Place:

Nature of alleged infringement:

Infringement fee payable:

Amount of infringement fee remaining unpaid:

Service details

(To be provided for filing in court)

The infringement notice was served by [*method of service*] at [*full address of service*] on [*date*].

This reminder notice was served by [*method of service*] at [*full address of service*] on [*date*].

Payment of infringement fee

The infringement fee was payable to [*name of enforcement authority*] within 28 days after [*date infringement notice served*]. The infringement fee has not been paid.

The last day for payment of the infringement fee is [*date*], being 28 days after the date of service of this notice.

The infringement fee may be paid to [*name of enforcement authority*] by [*specify method(s)*].

Information

If there is anything in these notes you do not understand, you should consult a lawyer.

- 1 You have not paid the infringement fee described in this notice, or asked for a hearing, within 28 days after you were served with the infringement notice. That is why you have been served with this reminder notice.

Payments

- 2 If you pay the infringement fee for the alleged infringement offence within 28 days after you are served with this notice, no further enforcement action will be taken for the offence. Payments should be made to [*name of enforcement authority*] in the manner specified in this notice.
- 3 If, under section 21(3A) or (3C)(a) of the Summary Proceedings Act 1957, you enter or have entered into an arrangement with [*name of enforcement authority*] allowing you to pay the infringement fee by instalments, paragraphs 5(b) and (c) and 6 to 9 below do not apply, and you are not entitled to request a hearing to deny liability or to ask the court to consider any submissions (as to penalty or otherwise) in respect of the infringement.

Defence

- 4 You have a complete defence against proceedings for an alleged infringement offence if the infringement fee has been paid to [*name of enforcement authority*] in the manner specified in this notice before, or within 28 days after, you are served with this notice. Late payment or payment made in any other manner is not a defence.

Further action, including right to request hearing

- 5 You may—
 - (a) raise any matter relating to the circumstances of the alleged offence for consideration by [*name of enforcement authority*]; or
 - (b) deny liability for the alleged offence and request a court hearing; or
 - (c) admit liability for the alleged offence but have a court consider written submissions as to penalty or otherwise.
- 6 To take an action listed in paragraph 5, you must write to [*name of enforcement authority*] at the address for correspondence shown on this notice. You must

sign the letter and it must be delivered within 28 days after you are served with this notice, or within any further time that [*name of enforcement authority*] allows.

- 7 If, in your letter, you deny liability for the alleged offence and request a court hearing, [*name of enforcement authority*] will serve you with a notice of hearing that sets out the place and time at which the court will hear the matter (unless [*name of enforcement authority*] decides to take no further action to require payment for the alleged offence).

Note: If the court finds you guilty of the offence, the court is entitled to take into account any maximum fine for the offence, not just the infringement fee. In that case, the court may impose a fine that is greater than the infringement fee (but you still cannot get a conviction). Also, if the court finds you guilty of the offence, costs will be imposed in addition to any penalty, and you will be required to pay a hearing fee.

- 8 If you admit liability for the alleged offence but want the court to consider your submissions as to penalty or otherwise, you must, in your letter,—
- (a) request a hearing; and
 - (b) admit liability for the offence; and
 - (c) set out the written submissions you wish the court to consider.

- 9 [*Name of enforcement authority*] will then file your letter with the court (unless [*name of enforcement authority*] decides to take no further action to require payment for the alleged offence). If you follow this process, there will be no oral hearing before the court.

Note: The court is entitled to take into account any maximum fine for the offence, not just the infringement fee. In that case, the court may impose a fine that is greater than the infringement fee (but you still cannot get a conviction). Also, costs will be imposed in addition to any penalty.

Non-payment of fee

- 10 If you do not pay the infringement fee and do not request a hearing in respect of the alleged offence within 28 days after you are served with this notice, you will become liable to pay court costs as well as a fine (unless [*name of enforcement authority*] decides to take no further action to require payment for the alleged offence).

- 11 The fine will be equal to the amount of the infringement fee or the amount of the infringement fee remaining unpaid.

Correspondence

- 12 When writing, please specify—
- (a) the date of the alleged infringement offence; and
 - (b) the reminder notice number; and

(c) your full name and address for replies.

Note: All correspondence regarding the infringement offence must be directed to [*name of enforcement authority*] at the address shown on this notice.

Further details of your rights and obligations

13 Further details of your rights and obligations are set out in section 21 of the Summary Proceedings Act 1957.