



# COVID-19 Public Health Response Amendment Bill

J.17

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The COVID-19 Public Health Response Amendment Bill proposes two substantive changes to the COVID-19 Public Health Response Act 2020. The first change is to amend references to the Minister of Health as a decision-maker for creating and exempting people from COVID-19 Orders with references to the Minister responsible for the administration of the Act. The second change is to remove the requirement to provide 48 hours' notice when changing Alert Levels or conditions under them, as set out in Orders, if it would enable less restrictive measures to apply sooner.

These changes are consistent with the overall purpose of the Act, which is to support a public health response to COVID-19. The first change will ensure the Act better aligns with the new COVID-19 Response portfolio, while the second change provides for less restrictive measures under Alert Levels to be applied sooner.

The COVID-19 Public Health Response Act 2020 was enacted prior to the portfolio of COVID-19 Response Minister being created. It therefore includes references to the Minister of Health as a decision-maker for creating, and exempting people from, COVID-19 Public Health Orders such as:

- Alert Level orders;
- the Air Border Order, which provides for measures to protect the air border from COVID-19 coming into the country via aircraft;
- the Maritime Border Order, which provides for measures to protect the maritime border from COVID-19 coming into the country via sea; and
- the Isolation and Quarantine Order, which provides for the creation and operation of Managed Isolation and Quarantine Facilities, making sure COVID-19 is contained at the border and not released into the community.

It is appropriate that the Act confer these powers on the Minister responsible for administering the Act (which is currently the Minister for COVID-19 Response), rather than the Minister of Health.

This change is minor and technical in nature. Section 7 of the Constitution Act 1986 already allows for any other member of the Executive Council to exercise powers conferred on another Minister under legislation. However, this shouldn't be relied on in the long term and an amendment for flexibility and accuracy is appropriate.

The factors that must be taken into account when making or exempting people from Orders remain the same, including the requirement for public health advice from the Director-General of Health.

To ensure that decisions are made cognisant of potential flow on effects for the health system, it is also proposed that the Minister of Health would be added alongside the Prime Minister and the Minister of Justice to the list of people that must be consulted during the development of Orders.

### *The removal of the 48 hours' notice requirement*

The Bill also proposes to remove the requirement of 48 hours' notice when an Alert Level is being decreased, or less restrictive measures are to be applied.

This doesn't mean 48 hours' notice will not be given where appropriate, just that it will no longer be mandatory. When providing advice on reducing Alert Levels officials should give consideration to the required implementation time and notice period that is appropriate in each instance. The agencies responsible for industries affected by the Alert Level change should also provide notice of the change to those affected industries where possible.

Some changes will be quick to implement and will not need a notice period – such as removing the requirement to wear masks on public transport. Others, such as changes to public transport requirements, will have bigger logistical or implementation challenges, and notice will be required. The proposed amendment will give the flexibility needed to use the most appropriate approach based on the circumstances at the time.