

Reprint
as at 21 November 2020



COVID-19 Public Health Response (Election and Referendums) Order 2020

(LI 2020/267)

COVID-19 Public Health Response (Election and Referendums) Order 2020: revoked, on the close of 20 November 2020, by clause 9.

This order is made by the Minister of Health under section 11 of the COVID-19 Public Health Response Act 2020 in accordance with section 9 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 (Election and Referendums) Order 2020.

2 Commencement

This order comes into force at 11.59 pm on 2 October 2020.

Part 1 Preliminary provisions

Purpose

3 Purpose

The purpose of this order is—

- (a) to prevent, and limit the risk of, the outbreak or spread of COVID-19 by providing measures to support the safe conduct of the 2020 general election and referendums; and
- (b) to enhance public confidence to exercise the right to vote in the 2020 general election and referendums in the context of COVID-19.

Interpretation

4 Interpretation

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

1-metre physical distancing rule means the requirement set out in clause 13(1)

2-metre physical distancing rule means the requirement set out in clause 13(2)

2020 general election means the general election (as defined in section 3(1) of the Electoral Act 1993) to take place in 2020

Act means the COVID-19 Public Health Response Act 2020

advance voting place has the same meaning as in section 197A(10) of the Electoral Act 1993

contact tracing requirement means a requirement to have record-keeping systems and processes in place to enable a contact tracing record to be kept of persons entering premises

defined space means any single indoor space or outdoor space (*see* subclause (2))

Electoral Commission means the Crown entity established by section 4B of the Electoral Act 1993

electoral premises has the meaning set out in clause 5

electoral worker means a person—

- (a) who is an electoral official or a polling place official (as those terms are defined in section 3(1) of the Electoral Act 1993); and
- (b) who is carrying out work in, or is training to work in, that role

extended bubble arrangement 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 this order as if they were 1 home or place of residence for the purpose of keeping connections with family or whānau, enabling caregiving, or supporting persons living alone or otherwise isolated

fellow resident, in relation to 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

gathering of friends and whānau means a group of clients, voters, or other persons—

- (a) 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; but
- (b) of no more than the maximum number limit allowed for social gatherings in the area (if one applies in the area)

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; and
- (d) in the case of a block of flats or other building that has more than 1 home or place of residence, excludes the other homes or places of residence

physical distancing rule means the 1-metre physical distancing rule or the 2-metre physical distancing rule

polling place means any polling place appointed for the 2020 general election by the Electoral Commission under section 155 of the Electoral Act 1993

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)

QR code means a unique identifying code issued by the New Zealand Government for the purpose of enabling contact tracing

queue includes a queue formed by 1 person

referendums means the referendums that, in accordance with the Referendums Framework Act 2019, will be held alongside the 2020 general election

scrutineer means a person—

- (a) who is appointed as a scrutineer under the Electoral Act 1993 or the Electoral Regulations 1996 and, in accordance with that Act or those regulations, is allowed to act as a scrutineer; and
- (b) who is carrying out work in that role

stay-at-home requirements, in relation to persons within an area, includes—

- (a) requirements for persons to remain at their current home or place of residence, except for movement permitted as essential personal movement by a COVID-19 order (**essential personal movement**); or
- (b) if their home or place of residence is mobile, requirements to keep that home or place of residence in the same general location, except to the extent that they would be permitted (if it were not mobile) to leave the home or place of residence as essential personal movement

writ means the writ for the 2020 general election issued under the Electoral Act 1993.

- (2) For the purpose of the definition of **defined space** in subclause (1),—
 - (a) an indoor space or outdoor space is a single space if there are walls (whether permanent or temporary) that substantially divide that space from other spaces:
 - (b) an outdoor space is also a single space if there is at least 2 metres between all people in that space and any other people (outside that space).

5 Meaning of electoral premises

- (1) In this order, **electoral premises** means—
 - (a) polling places; and
 - (b) advance voting places; and
 - (c) national, regional, and electorate premises of the Electoral Commission; and
 - (d) premises, or any defined space in any premises, used by the Electoral Commission for training electoral workers.

- (2) However, the premises listed in subclause (1) are only **electoral premises** for the purposes of this order while they are being used by the Electoral Commission.

6 Transitional, savings, and related provisions

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

Application

7 Application

This order applies to the whole of New Zealand.

How order interacts with other COVID-19 orders

8 Order applies regardless of other alert level COVID-19 orders

- (1) This order adjusts rules and permissions in other COVID-19 orders, in relation to the 2020 general election and referendums.
- (2) This order applies in relation to another COVID-19 order regardless of whether the other COVID-19 order—
- (a) is in force when this order is made; or
 - (b) is made, or comes into force, after this order is made.
- (3) Subclause (1) is only a guide to the general scheme and effect of this order.

Revocation

9 Revocation

This order is revoked on the close of the day on which the writ for the 2020 general election is returned by the Electoral Commission.

Part 2

QR codes at electoral premises at any alert level

10 QR codes must be displayed in electoral premises

- (1) In all electoral premises, the Electoral Commission must ensure that a copy of a QR code for the premises is displayed in a prominent place at or near the main entrance of the premises.
- (2) A breach of subclause (1) is an infringement offence for the purposes of section 26(3) of the Act.
- (3) If a corresponding requirement under another COVID-19 order would have applied to any electoral premises, this clause applies in the place of that requirement to the electoral premises.

Compare: LI 2020/231 cl 8

Part 3

Rules and permissions that may apply, depending on alert level

Subpart 1—Contact tracing records

11 Contact tracing records in electoral premises

- (1) This clause applies if another COVID-19 order imposes a contact tracing requirement (other than the display of a QR code) that applies generally to 1 or more types of premises throughout, or in 1 or more areas of, New Zealand.
- (2) In addition to the requirement in clause 10(1), the Electoral Commission must have record-keeping systems and processes in place to enable a contact tracing record to be kept of all persons entering electoral premises in the area or areas of New Zealand in which that contact tracing requirement generally applies.
- (3) A breach of subclause (2) is an infringement offence for the purposes of section 26(3) of the Act.
- (4) In this clause, **contact tracing record**, in relation to a person entering any electoral premises, means—
 - (a) the name of the person; and
 - (b) the date on which and approximate time at which the person entered the premises; and
 - (c) a telephone number that may be used to easily contact the person.
- (5) To the extent that the contact tracing requirement under the other COVID-19 order would have applied to the electoral premises, this clause applies in the place of that requirement to the electoral premises.
- (6) In relation to how the contact tracing record under subclause (2) is collected, kept, and used, *see* the requirements in the Privacy Act 1993 that apply to persons collecting personal information.

Compare: LI 2020/231 cl 10

Subpart 2—Physical distancing requirements

12 When this subpart applies, and how it interacts with other COVID-19 orders

- (1) This subpart applies if another COVID-19 order imposes physical distancing requirements that apply generally to 1 or more types of workplaces throughout, or in 1 or more areas of, New Zealand.
- (2) If this subpart applies,—
 - (a) it applies in relation to electoral premises in the area or areas of New Zealand in which those physical distancing requirements generally apply; and

- (b) it applies in place of any of those requirements that would otherwise have applied in relation to those electoral premises.

13 Meaning of 1-metre and 2-metre physical distancing rules

- (1) In this order, the **1-metre physical distancing rule**—
 - (a) requires that a person remain at least 1 metre away from any other person; but
 - (b) applies only if the 1-metre physical distancing rule (rather than the 2-metre physical distancing rule) applies to each person referred to in paragraph (a); and
 - (c) does not apply to a person in relation to their fellow residents; and
 - (d) (except in an area that is subject to stay-at-home requirements under another COVID-19 order) does not apply to a gathering of friends and whānau.
- (2) In this order, the **2-metre physical distancing rule**—
 - (a) requires that a person remain at least 2 metres away from any other person; but
 - (b) for persons who are in queues to enter polling places or advance voting places, who are entering or exiting those premises, or who are electoral workers working directly outside those premises, requires that the person remain at least 2 metres away from any other person described in this paragraph; and
 - (c) does not apply to a person in relation to their fellow residents; and
 - (d) (except in an area that is subject to stay-at-home requirements under another COVID-19 order) does not apply to a gathering of friends and whānau.

Compare: LI 2020/231 cl 11

14 Electoral Commission to have systems and processes in place for physical distancing requirements relating to electoral premises

- (1) The Electoral Commission must have systems and processes in place—
 - (a) to maintain compliance (to the greatest extent practicable) with the physical distancing rules that apply to persons in relation to a polling place, or an advance voting place,—
 - (i) while those premises are open to the public for voting purposes (*see* clause 16); and
 - (ii) at the additional times described in clause 16(2); and
 - (b) to maintain compliance (to the greatest extent practicable) with the 1-metre physical distancing rule that applies to all of the following persons in electoral premises (other than in a polling place or an advance voting place at the times described in paragraph (a)):

- (i) electoral workers; and
 - (ii) scrutineers; and
 - (iii) Justices of the Peace and Judges carrying out electoral activities in accordance with the Electoral Act 1993 and the Electoral Regulations 1996; and
 - (iv) persons assisting Judges for the purpose in subparagraph (iii); and
 - (c) to maintain compliance (to the greatest extent practicable) with the 2-metre physical distancing rule that applies to any other persons in electoral premises (other than in a polling place or an advance voting place at the times described in paragraph (a)); and
 - (d) to mitigate the risks that arise to the extent that physical distancing is not fully maintained (for example, through regular cleaning of surfaces and availability of hand sanitiser).
- (2) A breach of subclause (1) is an infringement offence for the purposes of section 26(3) of the Act.

Compare: LI 2020/231 cl 13

15 Individuals must comply with physical distancing requirements relating to electoral premises

- (1) If either of the following rules applies to a person, the person must comply with that rule to the greatest extent practicable:
- (a) the 1-metre physical distancing rule;
 - (b) the 2-metre physical distancing rule.
- (2) A breach of subclause (1) is an infringement offence for the purposes of section 26(3) of the Act.

Compare: LI 2020/231 cl 14

16 Physical distancing requirements at polling places and advance voting places while open to public for voting purposes

- (1) When a polling place or an advance voting place is open to the public for voting purposes, the physical distancing requirements are as follows:
- (a) the 1-metre physical distancing rule applies to all persons in the polling place or the advance voting place (unless subclause (4) applies to those premises at that time); and
 - (b) the 2-metre physical distancing rule applies (to the greatest extent practicable) to—
 - (i) all persons who are in a queue to enter the polling place or the advance voting place; and
 - (ii) all persons who are entering or leaving those premises; and

- (iii) all persons who are electoral workers working directly outside those premises (for example, supervising the queue).
- (2) The physical distancing requirements in subclause (1) also apply, as follows, at the following additional times:
 - (a) the requirements in subclause (1)(b) apply to all persons described in that paragraph at any time when, before a polling place or an advance voting place opens to the public for voting purposes on a day, there is a queue to enter those premises; and
 - (b) the requirements in subclause (1)(a) and (b) apply to all persons described in that subclause at any time until, after a polling place or an advance voting place has closed to the public for voting purposes on a day, all of the public has exited those premises.

Requirements if area subject to stay-at-home requirements

- (3) Subclause (4) applies if a polling place, or an advance voting place, is in an area that is subject to stay-at-home requirements under another COVID-19 order.
- (4) The physical distancing requirements relating to the polling place or the advance voting place at the times described in subclauses (1) and (2) are the same as in those subclauses, except that the 2-metre physical distancing rule applies to all persons in the polling place or the advance voting place.

Subpart 3—Permissions relating to travel

17 When this subpart applies, and how it interacts with other COVID-19 orders

- (1) In this subpart,—
 - (a) clause 18 applies to a person to the extent that a stay-at-home requirement under another COVID-19 order would otherwise prevent the person from leaving their home or place of residence to travel as described in that clause; and
 - (b) clause 19 applies if another COVID-19 order restricts travel from, or to, an area of New Zealand (a **bounded area**).
- (2) To the extent that the stay-at-home requirements or the travel restrictions are inconsistent with this subpart, this subpart prevails.
- (3) Anything done in accordance with this subpart is not a breach of the other COVID-19 order.

18 Essential personal movement related to 2020 general election and referendums

- (1) If this clause applies to a person, subject to clause 19 (if it applies), the person is permitted to do any of the following:

Travel to vote or to enrol to vote

- (a) leave their home or place of residence—
 - (i) to enrol to vote in the 2020 general election and referendums (**enrol to vote**):
 - (ii) to vote in the 2020 general election or 1 or both of the referendums (**vote**):

Travel to accompany or assist a person to vote or enrol to vote

- (b) leave their home or place of residence to, at the request of another person, accompany that person to a place where that person can enrol to vote or vote:
- (c) leave their home or place of residence to enable or assist another person, in accordance with the Electoral Act 1993 and the Electoral Regulations 1996 (for example, as that person's representative as defined in that Act, or under section 170 of that Act), to enrol to vote or to vote:

Travel for dependants

- (d) if the person is a dependant of any person (**person A**) who is travelling for any purpose described in paragraph (a) to (c), leave their home or place of residence for the purpose of accompanying person A:

Electoral workers

- (e) if the person is an electoral worker, leave their home or place of residence to carry out any activity associated with that role:

Scrutineers, Justices of the Peace, Judges, and persons assisting Judges

- (f) if the person is a scrutineer, Justice of the Peace, or Judge, leave their home or place of residence for the purpose of carrying out electoral activities in accordance with the Electoral Act 1993 and the Electoral Regulations 1996:
- (g) if the person is assisting a Judge for the purpose described in paragraph (f), leave their home or place of residence to provide that assistance.

- (2) However, *see* clause 19 if another COVID-19 order restricts travel from, or to, an area of New Zealand.

19 Travel to, or from, bounded area

- (1) The permissions in clause 18(1)(a) to (d) do not extend to permitting a person to go into, or out of, a bounded area.
- (2) A person described in clause 18(1)(e), (f), or (g) is permitted, for the purpose described in that paragraph, to go into, or out of, a bounded area, but—
 - (a) only if the person, while in the bounded area,—
 - (i) to the greatest extent practicable, travels directly without stopping (except for a permitted airport transfer); and

- (ii) if temporary accommodation is necessary, stays in no more than 1 place; and
- (b) the person may go into, through, and out of the bounded area in 1 trip only if—
 - (i) neither the place of departure nor the destination is in the bounded area; and
 - (ii) it is necessary to travel through the bounded area for the purpose of their travel; and
 - (iii) the person carries evidence of the purpose of their travel and the location of the place of departure and destination.
- (3) Subclause (2) applies—
 - (a) only to the extent that the travel would otherwise be restricted by a COVID-19 order:
 - (b) regardless of whether clause 18 applies.
- (4) In this clause, **bounded area** has the meaning set out in clause 17(1)(b).
- (5) For the purposes of subclause (2), **permitted airport transfer** means a stop by a person at an airport for the purpose of transferring to an aircraft to go to another place in New Zealand if—
 - (a) the person does not leave the airport except to board a departing flight or to stay in temporary accommodation; and
 - (b) the person's departing flight is scheduled to depart within 4 hours after the person enters the airport.
- (6) This clause does not limit a person travelling for a purpose described in clause 18 in accordance with any more permissive COVID-19 order.

Compare: LI 2020/222 cls 11, 12

Subpart 4—Electoral premises may open

20 Closed premises may open for electoral purposes

- (1) This clause applies—
 - (a) to the extent that the Electoral Commission has entered into a lease of premises, or a defined space in premises, for use as electoral premises; and
 - (b) if another COVID-19 order requires a person to close those premises or that defined space, or to close other premises reasonably necessary to access those premises or that defined space.
- (2) The premises or defined space may open for use as electoral premises.
- (3) Any premises reasonably necessary to access the electoral premises may open for the purpose of enabling that access.

- (4) In this clause, **lease** includes a licence or a contract to enter into a lease or licence.
- (5) Anything done in accordance with this clause is not a breach of the other COVID-19 order.

Subpart 5—Social gathering rules do not apply

21 Accessing or providing electoral services is not social gathering

For the purposes of any other COVID-19 order, the following do not amount to a social gathering:

- (a) accessing or providing electoral services in accordance with this order:
- (b) persons described in clause 18(1)(f) carrying out activities described in that paragraph in accordance with this order.

Part 4 Exemptions

22 Exemption for emergencies

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

Compare: LI 2020/231 cl 28

23 Other exemptions from this order

- (1) Nothing in this order applies—
 - (a) to people while they are required to be in isolation or quarantine in accordance with either of the following:
 - (i) the Isolation and Quarantine Order:
 - (ii) the Maritime Border Order:
 - (b) 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:
 - (c) to the New Zealand Police:
 - (d) to Fire and Emergency New Zealand:
 - (e) to civil defence emergency management services provided by the National Emergency Management Agency and Civil Defence Emergency Management Groups:
 - (f) to workers carrying out any business or service referred to in any of paragraphs (b) to (e):
 - (g) to people who are enforcement officers carrying out their functions and exercising their powers under the Act.

(2) In this clause,—

Isolation and Quarantine Order means the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020

Maritime Border Order means the COVID-19 Public Health Response (Maritime Border) Order (No 2) 2020

worker means, in relation to a business or service, any person who carries out work in any capacity for that business or service (whether paid or unpaid).

Compare: LI 2020/231 cl 29

24 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) An exemption for any specified person, business, service, or goods must be notified in writing to—
 - (a) the applicant; and
 - (b) in the case of an exemption for any specified person, business, or service, the exempt person or business.
- (4) An exemption for any class of persons, businesses, services, or goods 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*.

Compare: LI 2020/231 cl 30

Schedule 1

Transitional, savings, and related provisions

cl 6

Part 1

Provisions relating to this order as made

There are no transitional, savings, or related provisions relating to this order as made.

Dated at Wellington this 30th day of September 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, which comes into force at 11.59 pm on 2 October 2020, is made under the COVID-19 Public Health Response Act 2020 (the **Act**).

The order relates to the safe conduct of the 2020 general election and referendums, and enhancing public confidence to vote, in the context of COVID-19.

Part 2 contains a rule requiring the display of QR codes in electoral premises, which includes polling places and advance voting places. The rule applies while the order is in force, regardless of what alert level New Zealand, or areas of New Zealand, are at in relation to COVID-19.

Part 3 contains other rules and permissions. Whether these rules and permissions apply (and the areas to which they apply) will depend on what general alert level requirements apply throughout, or in areas of, New Zealand from time to time while this order is in force. In *Part 3*, broadly,—

- *subpart 1* relates to contact tracing requirements in electoral premises (additional to the display of a QR code):
- *subpart 2* imposes physical distancing requirements for electoral premises and for queues to enter polling places and advance voting places. This subpart will apply in any area of New Zealand where physical distancing requirements are imposed generally on 1 or more types of workplaces under another COVID-19 order:
- *subpart 3* relates to travel. *Clause 18*, which applies to a person if another COVID-19 order imposes stay-at-home requirements that apply to that person, defines essential personal travel in the context of the election and referendums. This includes travelling to vote or to accompany another person to a place where that person can vote, travel for electoral workers, and travel for persons involved in the integrity of the electoral system (such as scrutineers). *Clause 19* contains qualifications to this travel that relate to, or prevent, the crossing of any boundaries imposed by another COVID-19 order (but without limiting travel allowed by another COVID-19 order):
- *subpart 4* allows premises that must be closed under another COVID-19 order to open for use as electoral premises or to enable access to electoral premises:
- *subpart 5* clarifies that accessing and providing electoral services (such as voting) or services related to the integrity of the electoral system (such as scru-

tineers observing voting) in accordance with the order will not amount to a social gathering under another COVID-19 order.

This order applies in relation to other COVID-19 orders regardless of whether those other orders come into force before this order is made, or are made or come into force after this order is made. However, under the Act, the Minister of Health may amend this order and must keep this order under review.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 30 September 2020.

Reprints notes

1 *General*

This is a reprint of the COVID-19 Public Health Response (Election and Referendums) 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 (Election and Referendums) Order 2020 (LI 2020/267): clause 9