

**Version
as at 2 December 2021**



**COVID-19 Public Health Response (Alert Level
Requirements) Order (No 12) Amendment Order
(No 4) 2021
(LI 2021/298)**

COVID-19 Public Health Response (Alert Level Requirements) Order (No 12) Amendment Order (No 4) 2021: revoked, at 11.59 pm on 2 December 2021, pursuant to clause 107 of the COVID-19 Public Health Response (Protection Framework) Order 2021 (SL 2021/386).

This order is made by the Minister for COVID-19 Response under sections 11 and 15 of the COVID-19 Public Health Response Act 2020 in accordance with section 9 of that Act.

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This order is administered by the Ministry of Health.

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Order

1 Title

This order is the COVID-19 Public Health Response (Alert Level Requirements) Order (No 12) Amendment Order (No 4) 2021.

2 Commencement

This order comes into force at 11.59 pm on 5 October 2021.

3 Principal order

This order amends the COVID-19 Public Health Response (Alert Level Requirements) Order (No 12) 2021.

4 Clause 4 amended (Interpretation)

In clause 4(1), insert in their appropriate alphabetical order:

early childhood service means an education entity that is a service provider (as defined in section 10(1) of the Education and Training Act 2020) that is an early childhood service (as so defined) that is—

- (a) an early childhood education and care centre (as so defined) that is not a playcentre affiliated to the New Zealand Playcentre Federation; or
- (b) a home-based education and care service (as so defined); or
- (c) a hospital-based education and care service (as so defined)

limited outdoor gathering has the meaning given by clause 32A(2)

5 Clause 18 amended (Permitted purposes for travel between alert level areas (or between Auckland and Waikato parts of alert level 3 area))

In clause 18(2A), delete “(including travelling through the Auckland part of the alert level 3 area)”.

6 Clause 21 amended (Permissions for essential personal movement within alert level 3 area)

- (1) Replace clause 21(6) and (7) and the headings above those paragraphs with:

Limited recreation purposes

- (6) to undertake exercise or other recreation if—
- (a) it is done in an outdoor place appropriate for that kind of exercise or recreation; and
 - (b) it is done in compliance with the requirements that relate to physical distancing (*see* clause 22) and the prohibition against gathering in outdoor places (*see* clause 31); and
 - (c) it does not involve travel to either Waiheke Island or Great Barrier Island (Aotea Island) by a person whose home or place of residence is not on that island:

Limited customary purposes

- (7) to exercise Māori customary rights to fishing and food gathering if—
- (a) it is done in an outdoor place; and
 - (b) it is done in compliance with the requirements that relate to physical distancing (*see* clause 22) and the prohibition against gathering in outdoor places (*see* clause 31); and
 - (c) it does not involve travel to either Waiheke Island or Great Barrier Island (Aotea Island) by a person whose home or place of residence is not on that island:

- (2) After clause 21(24), insert:

Limited outdoor gatherings

- (24A) to attend a limited outdoor gathering:

7 New clause 22A inserted (Exceptions for individuals at education entities that are early childhood services in alert level 3 area)

After clause 22, insert:

22A Exceptions for individuals at education entities that are early childhood services in alert level 3 area

- (1) People who are ordinarily at an education entity that is an early childhood service in the alert level 3 area for the purposes of receiving or providing, or assisting in or supporting the receipt or provision of, education services are not required to comply with the 1-metre physical distancing rule or the 2-metre physical distancing rule.
- (2) The exception from physical distancing in subclause (1) does not apply to—
 - (a) activities that involve 2 or more early childhood services:
 - (b) activities at (or connected with) an education entity that are attended by people who are otherwise not ordinarily at the education entity for the purposes of receiving or providing, or assisting in or supporting the receipt or provision of, education services.

8 Clause 30 amended (Adjusted alert level 3 requirements for businesses and services)

In clause 30, insert as subclause (2):

- (2) Education entities that are early childhood services in the alert level 3 area—
 - (a) need not have systems and processes in place to maintain compliance with the 1-metre physical distancing rule or the 2-metre physical distancing rule for people who are ordinarily at the education entity for the purposes of receiving or providing, or assisting in or supporting the receipt or provision of, education services; but
 - (b) must have systems and processes in place to mitigate so far as is reasonably practicable the risks that arise to the extent that compliance with the physical distancing requirements that would otherwise apply under this Part to the workplace or service is not fully maintained (for example, regular cleaning of surfaces).

9 Clause 31 amended (Prohibition on gatherings in outdoor places in alert level 3 area)

After clause 31(3)(c), insert:

- (ca) a limited outdoor gathering (*see* clause 32A); or

10 Cross-heading above clause 32 amended

In the cross-heading above clause 32, after “*Controlled gatherings*”, insert “*or limited outdoor gatherings*”.

11 Clause 32 amended (People responsible for controlled gatherings in alert level 3 area must comply with contact record requirements)

- (1) Replace clause 32(5)(b) with:
 - (b) there are no more than 10 people at any one time at the gathering, excluding workers; and
- (2) Replace clause 32(5)(e) with:
 - (e) if the gathering is indoors and food or drink is served, people who are eating or drinking are seated.

12 New clause 32A inserted (Limited outdoor gatherings permitted in alert level 3 area)

After clause 32, insert:

32A Limited outdoor gatherings permitted in alert level 3 area

- (1) A limited outdoor gathering is permitted in the alert level 3 area.
- (2) In this clause, **limited outdoor gathering** means a gathering that meets all of the following requirements:
 - (a) the gathering occurs in any outdoor place in the alert level 3 area;
 - (b) there are no more than 10 people at any one time at the gathering;
 - (c) each of those people reside at 1 of a total of no more than 2 homes or places of residence within the alert level 3 area.

13 New Part 3A inserted

Before Part 4, insert:

Part 3A

Alert level 3 requirements continued for Waikato part of alert level 3 area

32B Permissions for essential personal movement

- (1) In the Waikato part of the alert level 3 area, clause 21(6) and (7) does not apply, and the following paragraphs apply instead:

Limited recreation purposes

 - (6) to undertake exercise or other recreation if—
 - (a) it is done in an outdoor place appropriate for that kind of exercise or recreation that is readily accessible (including by using their vehicle) from their home or place of residence; and
 - (b) it is done in compliance with the requirements that relate to physical distancing (*see* clause 22) and the prohibition against gathering in outdoor places (*see* clause 31); and

- (c) it does not involve scuba-diving, water-based activities involving boating, sailing boats, motorised craft, or motorised equipment, hunting in motorised vehicles, or flying manned aircraft; and
 - (d) it does not involve any other activities that expose the participant to danger or may require search and rescue services:
Limited customary purposes
- (7) to exercise Māori customary rights to fishing and food gathering if—
- (a) it is done in an outdoor place that is readily accessible (including by using their vehicle) from their home or place of residence; and
 - (b) it is done in compliance with the requirements that relate to physical distancing (*see* clause 22) and the prohibition against gathering in outdoor places (*see* clause 31); and
 - (c) it does not involve scuba-diving, water-based activities involving boating, sailing boats, motorised craft, or motorised equipment, hunting in motorised vehicles, or flying manned aircraft; and
 - (d) it does not involve any other activities that expose the participant to danger or may require search and rescue services.
- (2) In the Waikato part of the alert level 3 area, clause 21(24A) (which relates to limited outdoor gatherings) does not apply (*see also* clause 32D).

32C Prohibition on gatherings in outdoor places: controlled gatherings

Gathering must be one at which no food or drink is served

In the Waikato part of the alert level 3 area, clause 32(5)(e) does not apply, and the following paragraph applies instead:

- (e) the gathering is one at which no food or drink is served.

32D Prohibition on gatherings in outdoor places: limited outdoor gatherings

In the Waikato part of the alert level 3 area, clauses 31(3)(ca) and 32A do not apply (*see also* clause 32B(2)).

14 Clause 37 amended (Requirements for individuals on public transport services in alert level 2 area)

Revoke clause 37(3) and (4).

15 Clause 44 amended (Certain business and services in alert level 2 area to have systems and processes for contact record rule)

In the heading to clause 44, replace “**business**” with “**businesses**”.

16 Schedule 2 amended

- (1) In Schedule 2, replace item 18 and the heading above that item with the items 18 and 18A and the heading above those items set out in the Schedule of this order.

- (2) In Schedule 2, item 20, replace “30(c)” with “30(1)(c)”.

17 Schedule 5 amended

In Schedule 5, replace item 1.37 with:

- 1.36A Forestry and wood product processing for which the travel between alert level areas is reasonably necessary to enable the business or service to be provided and where the provision of the business or service cannot reasonably be delayed without substantial implications for the supply chain
- 1.37 Businesses or services necessary to maintain any of the following:
- businesses or services described in items 1.1 to 1.36A:
 - exempt businesses or services

18 Schedule 6 amended

- (1) In Schedule 6, replace item 5 with:

5	Event facilities (for example, cinemas, theatres, stadiums, concert venues, conference venues, and casinos)	✓	Contact record rule applies in relation to—
			<ul style="list-style-type: none"> • persons other than workers of the business or service; and • indoor event facilities only

- (2) In Schedule 6, replace items 17 and 18 with:

17	Public transport services	See clauses 12 and 14	See clauses 37 and 42(3)
18	[blank]		

- (3) In Schedule 6, replace item 20 with:

20	Cafes, restaurants, bars, clubs, soup kitchens, and other food and drink businesses or services to which clause 38 applies	See clause 39(8) in relation to workers	✓	<p>For requirements for individuals, see clause 38</p> <p>Businesses and services must have systems and processes in place to—</p> <ul style="list-style-type: none"> • ensure that each customer or client is seated at a table (unless clause 38(3) applies); and • ensure that there is at least a 1-metre separation between customers and clients seated at adjacent tables; and • ensure compliance with clause 38(5) <p>Contact record rule applies in relation to persons other than</p>
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cl 18

workers of the business or
service

Schedule
New items inserted into Schedule 2

cl 16(1)

	Customers and clients allowed in workplace (clause 30)	1 m (rather than 2 m) physical distancing rule applies to all persons (clause 22)	Contact record rule applies (clause 28)	Additional conditions
18	Education entities Education entities (except early childhood services)	✓	✓	<p>Must have systems and processes in place to—</p> <ul style="list-style-type: none"> keep children, students, and teachers, so far as is reasonably practicable, in groups that are appropriately sized and stable; and for schools, limit students' physical attendance to students in years 1 to 10 and, for other students, as otherwise permitted by any direction given by the chief executive of the Ministry of Education under Schedule 25 of the Education and Training Act 2020
18A	Early childhood services	✓	Exempt—see clauses 22A and 30(2)	<p>Must have systems and processes in place to keep children, students, and teachers, so far as is reasonably practicable, in groups that are appropriately sized and stable</p>

Dated at Wellington this 5th day of October 2021.

Hon Chris Hipkins,
Minister for COVID-19 Response.

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 5 October 2021, amends the COVID-19 Public Health Response (Alert Level Requirements) Order (No 12) 2021.

Permitted travel into, out of, or through alert level areas

Permissions for travel are adjusted so that a person may go from the alert level 2 area into the Waikato part of the alert level 3 area (*but no longer including travelling through the Auckland part of the alert level 3 area*) (and return to their home or place of residence afterwards) for the purpose of going to work (*emphasis added*).

A new item is added to the list of activities for which travel into, out of, or through alert level areas is permitted. The new item relates to the business or service of forestry and wood product processing for which the travel between alert level areas is reasonably necessary to enable the business or service to be provided and where the provision of the business or service cannot reasonably be delayed without substantial implications for the supply chain.

Adjustments to alert level 3 settings

Removal of physical distancing for early childhood services

Alert level 3 settings are adjusted for education entities that are early childhood services (early childhood education and care centres (excluding specified playcentres), home-based education and care services, or hospital-based education and care services). Early childhood services will continue to be allowed to have customers and clients in the workplace without the contact record rule applying, subject to the condition that they must have systems and processes in place to keep children, students, and teachers, so far as is reasonably practicable, in groups that are appropriately sized and stable. But alert level 3 settings are adjusted so that early childhood services—

- are not required to comply with the 1-metre physical distancing rule or the 2-metre physical distancing rule; and
- need not have systems and processes in place to maintain compliance with the 1-metre physical distancing rule or the 2-metre physical distancing rule for people who are ordinarily at the education entity for the purposes of receiving or providing, or assisting in or supporting the receipt or provision of, education services; but

- must have systems and processes in place to mitigate so far as is reasonably practicable the risks that arise to the extent that compliance with the physical distancing requirements that would otherwise apply to the services is not fully maintained (for example, regular cleaning of surfaces).

Expanded outdoor recreation

Alert level 3 settings are also adjusted to permit expanded outdoor recreation and exercise of Māori customary rights to fishing and food gathering. In particular, movement can be anywhere in the alert level 3 area, and may be to undertake activities currently prohibited (for example, water-based activities, or other activities that expose the participant to danger or may require search and rescue services). But it must not involve travel to either Waiheke Island or Great Barrier Island (Aotea Island) by a person whose home or place of residence is not on that island.

Food or drink may be served at controlled gatherings

Alert level 3 settings for a controlled gathering are also adjusted so that—

- no more than 10 people, excluding workers, and no more than 5 workers, may be at any one time at the gathering, whether it is for viewing a tūpāpaku or deceased person, a funeral service, a tangihanga, or a wedding or civil union service;
- if the controlled gathering is indoors and food or drink is served, people who are eating or drinking must be seated.

People may leave home to attend limited outdoor gatherings

Alert level 3 settings are also adjusted to permit a person to leave their home or place of residence to attend a limited outdoor gathering. A limited outdoor gathering means a gathering that meets all of the following requirements:

- the gathering occurs in any outdoor place in the alert level 3 area;
- there are no more than 10 people at any one time at the gathering;
- each of those people reside at 1 of a total of no more than 2 homes or places of residence within the alert level 3 area.

A limited outdoor gathering may be one at which food or drink is served or consumed, whether or not any person is seated.

Former requirements continued for Waikato part of alert level 3 area

In the Waikato part of the alert level 3 area, the adjustments for expanded outdoor recreation, food or drink being served at controlled gatherings, and limited outdoor gatherings, do not apply. Instead, the former requirements are continued.

Adjustments to alert level 2 settings

Alert level 2 settings are adjusted as follows:

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Explanatory note

- the limit of 100 customers or clients at food and drink businesses and event facilities is removed (and the physical distancing requirements instead determine maximum capacity at those places):
- the no-standing rule on public transport is removed.

Approval by resolution required

This order must be approved by a resolution of the House of Representatives before the expiry of the period described in section 16(2) of the COVID-19 Public Health Response Act 2020. If this does not happen, the order is revoked on the expiry of that period.

Issued under the authority of the Legislation Act 2019.
Date of notification in *Gazette*: 5 October 2021.

Notes

1 *General*

This is a consolidation of the COVID-19 Public Health Response (Alert Level Requirements) Order (No 12) Amendment Order (No 4) 2021 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

COVID-19 Public Health Response (Protection Framework) Order 2021 (SL 2021/386): clause 107