

**Operational Policing Guidelines
Policing at Alert Level Two
(Including scenarios for the frontline)**

14 May 2020

| Contents | Page No |
|--|----------------|
| 1. Introduction | 2 |
| 2. Public Health Principles to Guide Policing at Alert Level Two | 3 |
| 3. Police Position | 4 |
| 4. Graduated Response | 5 |
| 5. Scenario's | 7 |
| 6. Quick-fire Q & A's | 11 |
| 7. Legal Powers – Response to COVID-19 Alert Level Two | 14 |
| Appendix A - Public Health Response Order | 18 |

Please note this document is live from 12.01 AM, 14 May 2020 and is intended to replace the earlier version 'Operational Policing Guidelines Alert Level 3 (Scenario's for the Frontline)' dated 3 April which should be destroyed.

Staff should consider their Health and Safety

This remains a fluid situation, for the latest information and advice on Health and Safety requirements please check our [Ten One intranet page](#).

1. Introduction

On 11 May 2020, Cabinet reviewed and made a decision regarding New Zealand's Alert Level settings. The Prime Minister announced that New Zealand will move to Alert Level Two effective 12.01 AM on Thursday, 14 May 2020.

Alert Level Two is not life as normal, some restrictions and other measures remain in place to reduce the risk of transmission. Significant updates to restrictions under Alert Level Two restrictions¹ include:

- Stay at home if sick; don't go to work or school, or socialise
- Get tested if you have cold or flu-like symptoms
- Keep track of where you've been and who you've seen
- Keep your distance from others in public (ideally to the greatest extent practicable, two metres)
- Most businesses and public venues can open if they can do so safely, with a maximum of 100 people allowed (excludes staff), at any one time (100 people only applies to facilities that provide sit down eating and/or drinking services and event facilities such as cinemas, theatres, stadiums, conference facilities- it DOESN'T apply to retail shops, gyms, outdoor markets, museums, libraries, outdoor venues such as play grounds).
- Businesses must maintain contact tracing records and maintain a minimum one metre between customers.
- There are exceptions to physical distancing, including for businesses where physical closeness is required, such as hairdressers, physiotherapists, home help and taxis: to the extent that a worker needs to come closer than a metre to provide the service the one metre rule may be broken.
- Public transport and school transportation are specifically excluded from the order so no physical distancing requirements apply.
- Businesses that serve food or drink for eating and/or drinking on the premises- have a limit of 100 customers at any one time, all customers must be seated at a table of no more than 10 people, have tables separated by at least one metre and be served by a single server.
- Customers may go into businesses, including cafes, restaurants, bars and pubs
- Education facilities will open
- Travel between regions is permitted
- Exercise, sport and recreation activities (including hunting and motorised watersports) are permitted.
- Gatherings (excluding funerals) are limited to no more than 10 people and if the attendees are not all known to each other, then complies with relevant MOH requirements for such services, contact tracing records must be kept.
- Funerals and tangihanga are able to have up to 50 people (excluding workers) providing the service complies with relevant MOH requirements for such services, is registered with the Ministry of Health prior to the service taking place and records are kept of attendees for the purposes of contact tracing.

The state of emergency under the Civil Defence Emergency Management Act 2002 (CDEMA) that has been in force since Wednesday 25 March expired on Wednesday 13 May at 1221hrs. It will be replaced by a national transition period for up to 90 days (unless extended). Police may rely on continuing powers under CDEMA during the national transition period, in particular, the power to close roads and public places (s.94M), and the power to give directions to stop any activity that may cause or worsen an emergency (s.94N).

¹ See <https://covid19.govt.nz/alert-system/alert-level-2/#moving-to-alert-level-2> for full details.

Public Health Response Order came into effect at 12.01 AM on 14 May 2020. The purpose of this Order is to prevent, and limit the risk of, the outbreak or spread of COVID-19 by putting in place obligations in relation to businesses and services, and gatherings.

A link to the Public health Response Order is attached at the rear of this document (refer **Appendix A**).

2. Public Health Principles to Guide Policing at Alert Level Two

There is a significant additional activity permitted at Alert Level Two.

The virus remains in New Zealand and we need to stay vigilant and prepared, and take appropriate steps to avoid any possible transmission. We expect to see some new cases and these may be the result of close contact transmission or associated with clusters.

People should limit their movement whenever possible.

People are able to leave home but are asked to do so in a safe way which maintains distance from others, and continue to observe good hygiene.

People should not travel, go to work or go shopping if they have cold or flu-like symptoms. They should access medical assistance and testing.

People who display any possible symptoms of COVID-19, test positive for COVID-19, have been in close contact with someone who tests positive for COVID-19, must self-isolate or be in managed isolation, including mandatory quarantine/managed isolation for those who have been overseas in the last 14 days.

Physical distancing remains key to preventing the spread of the disease, whilst contact tracing will enable us to mitigate the risks associated with increased social interaction.

People should to the greatest extent practicable keep two metres apart from people they do not know when in an uncontrolled environment. Note it is one metre in many public settings e.g. at a restaurant or in a museum or at a cinema. In other situations such as on a bus there is no distancing required, and people can be part of a gathering of friends and whanau with people they do not know and have no physical distancing, if records are kept that enable contact tracing.

You can socialise safely with people that you do know in groups of up to 10 people. That means catching up with family and friends, sitting together at a restaurant table, attending a wedding or birthday party etc.

In environments where contact tracing is possible, people should still try to maintain physical distancing, but there are exceptions:

- People can gather, but in groups of no more than 10, regardless of whether in a private or public setting. This includes for weddings, religious ceremonies, socialising and children's play dates etc. The exception is funerals and tangihanga which have a maximum of 50 people (excluding workers) provided strict requirements, specific to these larger gatherings, are complied with.
- Workers and their customers can be less than 1 metre from each other where closer proximity is required in order to provide the particular service, such as hairdressing, massage or taxi services. However, the 1 metre distance must otherwise be maintained in such businesses.

- Some businesses are exempt from the order. Schools and other educational entities such as universities and polytechs are exempt from the order provided they maintain records to enable contact tracing if required and have measures in place to mitigate the risks if distancing is not maintained.
- Public transport (including school transport) are exempt from the requirements of the order.
- People can engage in sport, recreational, faith-based and cultural activities provided all these activities are a gathering of friends and whanau, provided they occur at a gathering of a maximum of 10 people, however if those 10 people are not all known to each other, contact tracing records are kept.
- People can attend public gatherings with other people. If they are attending the gathering as part of a group of friends and whanau who don't maintain physical distance from each other that group may consist of no more than 10 people and, if they do not know each other, then they must keep contact tracing records. If the gathering occurs in a controlled space, such as at a museum, cinema or stadium then they must maintain a physical distance of 1 metre from people who are not part of their group of whanau and friends. Rules regarding the total number of people attending the event and contact tracing requirements may apply. If the event is occurring in an uncontrolled space, for example at a local park or the beach, then there are no rules on the total number of people who may attend but a 2 metre distancing rule applies, with respect to people who are not part of the same group of friends and whanau.

People are required to provide their details for the purpose of contact tracing. Contact tracing record standards include name, address and a means of contact, such as telephone number or email address.

Controlled workplaces, schools must keep records to enable contact tracing of all workers who enter the workplace or carry out work for the business or service.

3. Police position

1. We police by consent and must maintain the support of the wider public in our actions. As always we must use and be seen to use discretion, sound judgement and be proportionate.
2. As the country transitions to Alert Level Two, it is important staff recognise there are significant changes to enforcement action which existed under previous higher Alert Levels. The Public Health Response Order came into effect from 12.01 am on Thursday 14 May 2020
3. It is an offence to breach an order (infringement or otherwise). Police then have powers arising from that offence to enter locations, by force if appropriate and give directions. There is no power to use force against people, excepting that permissible through other legislation, for example to effect an arrest (Crimes Act 1961).

An infringement process is being developed in the future, however in the meantime, follow the Graduated Response Model approach.

The New Zealand Government website [Unite against COVID-19](#) provides advice for New Zealanders that assists them to work within the constrictions of Alert Level Two.

4. Graduated Response

At all times we need to take a graduated response to any situation we encounter and apply a common sense understanding to the intent of what we are asking everyone in our communities to achieve.

1. **Engage** with the parties and communicate with them to identify whether their current behaviour or activities are contrary to the government's response to COVID-19.
Educate them on the current requirements (if necessary) to correct their behaviour or activities.
Encourage compliance measures if required.
2. **Warn** – only where evidence of education exists and when offences are repeated or are sufficiently serious.
3. **Enforcement** – only resort to prosecutorial measures if **absolutely necessary**.

All of Government (AoG) COVID-19 have adopted a graduated response model incorporating these principles.

AOG COVID-19 COMPLIANCE OPERATING MODEL

Graduated Response Model

1. Engage, Encourage, Educate

- Awareness is key to prevention and driven by strategic communications.
- Proactive engagement and community presence should be delivered across all regulating agencies through their BAU (or enhanced BAU) activities.
- Redirection to welfare or community/iwi support is utilised based on situational context and risk.
- All agencies with a regulatory function can play a role in educating and encouraging compliance when specific instances of non-compliance is identified, including:

- | | |
|------------------|-----------------|
| - Local Councils | - MBIE |
| - Worksafe | - MPI |
| - Maritime NZ | - Corrections |
| - Police | - MSD |
| - MoT | - DHBs / PHUs |
| - NZTA | - Civil Defence |

2. Warn

- Where there is evidence of education and repeated (or sufficiently serious) offences against COVID-19 control measures formal warnings (or notices to improve) are issued by those with legal powers to act.

See following slide for detail on powers to act.

3. Enforce, Arrest, Prosecute

- Ability to leverage special powers to enforce closures, quarantine, removal or other actions to comply with health requirements.
- For individuals with prior warning(s) or sufficiently serious offences, **Police** can arrest, detain and ultimately prosecute.
- For businesses with prior warning(s) or sufficiently serious offences, regulators can use existing compliance powers.

Compliance starts with awareness...
...with many regulating Agencies having a role to play.

We will enable this by:

- Providing clear messages to the public regarding what to do to comply, and what to expect in instances of non-compliance.
- Ensuring Agencies understand their compliance role, and how they can interact with the AoG Compliance function.
- Ensuring recurring compliance issues are used to inform ongoing strategic communications

Police will need to respond, and make decisions about how to deal with situations as a result of the declaration of the state of emergency, and that are impacted by the Public Health Response Order.

A summary of the legal powers that include both Public Health Response Order is included (refer *legal powers* – section 5).

The Public Health Response Order came into force at 12.01 AM on Thursday 14 May 2020. It provides measures to prevent the outbreak or spread of COVID-19 by limiting people's movement and contact between people. The following seven principles should be considered when applying the intent of the Order.

Alert Level Two Principles

Alert Level Two is based on the following principles:

Do everything you can to **reduce** the risk of COVID-19 transmission.

1. COVID-19 is still out there. Play it safe.

2. Keep your distance from other people in public.
3. If you're sick, stay home. Don't go to work or school. Don't socialise.
4. If you have symptoms of cold or flu call your doctor or Healthline and get tested.
5. Wash your hands. Wash your hands. Wash your hands.
6. Sneeze and cough into your elbow, regularly disinfect surfaces.
7. If you have been told to self-isolate you must do so immediately.
8. Keep a track of where you've been and who you've seen.

Additional rules for businesses at Alert Level Two

Do everything you can to **reduce** the risk of COVID-19 transmission at work – we all have a part to play in keeping each other safe.

1. All businesses can operate if they can do so safely. Alternative ways of working are encouraged where possible.
2. Hospitality business are required to seat customers, separate them and have a single server.
3. Talk with your workers to identify risks and ways to manage them.
4. Ask everyone – workers, contractors and customers – with cold or flu-like symptoms to stay away from your premises.
5. Keep groups of customers at least one metre apart, or two metres for retail businesses.
6. Keep contact tracing records of anyone who will have close interaction for example workers, contractors or customers. Retail businesses are not required to keep contact tracing records.
7. Reduce the number of shared surfaces and regularly disinfect them.

Alert Level Two

The following scenarios should assist all staff when dealing with people in these times, but are by no means exhaustive. Please remember that the existing legislation that Police operate under is still relevant and available to be used for normal policing issues.

5. Scenarios

Scenario One – Public Health Measures

Scenario:

You are tasked to attend a job at a beach where there is a large number of people congregating in close proximity.

Graduated Response Model

Under Alert Level Two, people should keep their distance from strangers (ideally 2 metres), but physical distancing isn't required for people you know or in situations where contact tracing measures are in place.

Under Alert Level Two it is lawful to gather in groups of up to 10 people without physical distancing provided the group includes people who don't know each other, a record is kept of the attendees to enable contact tracing. These lawful groups are referred to as a "gathering of friends and whanau". There is no limit to the number of people who may congregate at the beach at one time. However, each person or "gathering of friends and whanau" must stay at least 2 metres away from other people to the greatest extent practicable.

Engage/Encourage/Educate

Engage with people and encourage them that they should keep their distance (at the greatest extent practicable (at least two metres) from people they do not know or who are not part of their gathering of friends and whanau.

Enforce

Where people continue to not follow the requirements to maintain 2 metre distancing to the greatest practicable, a formal warning may be issued.

Scenario Two – Personal Movement

Scenario

During a routine traffic stop you discover a 75 year old who is going to the local park to meet up with her walking group.

Graduated Response Model

People can leave their homes to take part in group activities under Alert Level Two. Provided the person is not intending to gather as part of a group of more than 10 people there is no reason to intervene.

Engage/Encourage/Educate

Engage with her and encourage her to maintain at least two metres distance from people who are not part of her gathering of friends and whanau.

Scenario Three – Travel and Transport

Scenario

You stop a vehicle and find a family who are travelling from Auckland to Turoa to go skiing. When you talk to this family you see that one member is coughing and sneezing.

Graduated Response Model

People are entitled to travel freely within the country under Alert Level Two.

Engage/Encourage/Educate

At Alert Level Two people are able to travel within New Zealand including for holidays and recreation. You may encourage the party to consider returning home to enable the sick person to be tested. However, you should be clear that you are not issuing a direction requiring them to do so - any such direction would be unlawful.

Scenario Four - Funeral

Scenario

A member of the public calls to say that there is a funeral taking place with a large crowd in attendance. When you arrive you see there at least 100 people present.

Guidelines for gatherings can be found on the Government COVID-19 website.

A gathering means a group of people who are intermingling, and includes both private and public activities.

Strict rules are in place for funerals/tangihanga to stop the spread of COVID-19:

- Funerals or communities can carry out funerals and tangihanga as long as guidelines are followed.
- Any service that has more than 10 people (no more than 50, as per the restrictions), the service must be registered with the MOH prior to the service taking place. The group limit of 50 people excludes workers.

For contact tracing purposes, a record must be made of the contact details of every person who attended, including name, address and a phone number or email address they can be contacted on. We must undertake a graduated response to any situation we encounter where family/whānau/friends who want to attend funerals and tangihanga.

Staff will need to approach the funeral director who will educate and encourage family/whānau around the current COVID 19 rules, with a view to managing attendee numbers, contact tracing.

Graduated response

Engage/Encourage/Educate

If the group exceeds 50 people, and it is very clear that they are in breach of the rules then engage with the parties and educate them on the current requirements (if necessary) to correct their behaviour or activities. Encourage compliance measures if required.

Enforce

Only resort to warnings or prosecutorial measures if absolutely necessary. In the event of responding to a breach relating to a particular religious or cultural group, consider liaising directly with DCC, Iwi Liaison Officer, Pacific Liaison Officer or Maori Responsiveness Manager. If you are aware of a potential issue ahead of time, contact the organiser, or family/whānau to discuss what support they require.

As this is an emotional and challenging time staff will need to be sensitive and undertake all interactions in line with Our Values.

Scenario Five – Licenced Premises

Scenario

You are called to a bar following a complaint that customers are being served alcohol but not food. When you get there you see a number of tables where patrons have alcoholic drinks but no food.

Guidelines for gatherings can be found on the Government COVID-19 website.

Graduated Response Model

On-licence premises cannot supply alcohol unless the buyer is a customer who is on the premises to dine. Police are seeking clarification as to whether this is an ongoing requirement under Alert Level Two or just applies for the week from 14 May 2020 to 21 May.

Engage/Educate/Encourage

Engage with the person in charge and educate them that they cannot serve alcohol unless patrons are also dining. Encourage them to comply with the Health Order requirements.

Enforce

Warn that failure to comply could result in the business being forced to close for up to 24 hours under section 24 of the COVID-19 Public Health Response Act 2020. A formal warning could also be issued.

Scenario Six – Sporting Club licenced premises

Scenario

You receive a report that there appears to be a large gathering of people at the local Golf Club, consuming alcohol on the premises.

You attend and note a gathering of less than 100 people, standing around, relatively well spaced out and consuming alcohol however no one is eating. You note food is available for sale from the counter.

You speak with the duty manager who explains the club had run a competition that day, and competitors who belong to the club (and invited guests) decided to have a few drinks in the club house.

Graduated Response Model

Club Licences- Sale and Supply of Alcohol Act 2012

The Sale and Supply of Alcohol Act 2012 pursuant to a Club Licence (Secs 60-62) requires:

- Authorised customers and guests only to be present
- Alcohol supplied must be supplied by the premise ie no one can BYO
- Non alcoholic drinks must be available
- Low alcohol drinks must be available
- A reasonable range of food must be available for sale and consumption

Public Health Response (Alert Level 2) Order 2020

The Health Order (Sec 10) sets out the general requirements of all businesses and services:

- All customers to remain 2 metres apart from each other except:

- People who work for the business/service where the distance required is 1m
- People who are part of a gathering of friends/whanau (less than 1m, max of 10 people)

The Health Order (Sec 12) sets out specific food and drink requirements for businesses and Services:

- No more than 100 customers to be present at any 1 time
- Ensure each customer is seated at a table
- Ensure no more than 10 customers are seated at a table together
- Tables are to be 1m apart from adjacent tables
- Only 1 worker to serve at any table
- Keep records to enable contact tracing of customers
 - Customers full name
 - Customers address
 - Effective means of communication (current phone or email)
 - Date, arrival/departure times

Engage/Educate/Encourage

Engage with customers and the business and educate them on the requirements contained in the Health Order. Encourage customers and businesses to comply with the requirements of the Health Order.

Enforce

Enforcement should be applied diligently and with sound decision making.

Scenario Seven – Business

Scenario

You drive past a local takeaway shop and see a number of people inside sitting next to each other while waiting for their orders.

Guidelines for gatherings can be found on the Government COVID-19 website.

Graduated Response Model

Under Alert Level Two businesses can now open their premises to the public and have people enter. Customers should try to keep at least two metres apart from each other.

Note for close contact businesses such as hairdressers, information of those on the premises must be gathered so contact tracing can be conducted if necessary.

Engage/Educate/Encourage

Engage with the person in charge at the takeaway shop and educate them about physical distancing requirements. Encourage the shop to provide sufficient physical distancing for people to wait and to ensure appropriate infection prevention and control measures are operating.

Enforce

Warn that failure to comply could result in the business being forced to close for up to 24 hours under section 24 of the COVID-19 Public Health Response Act 2020. A formal warning could also be issued.

6. Quick Fire Q & A's

Question

Under Alert Levels Four and Three people were encouraged to stay in their bubbles. Do bubbles still apply under Alert Level Two?

Answer

No, bubbles don't apply under Alert Level Two but people are encouraged to keep their distance (ideally two metres) from people they don't know unless they are part of the same gathering and whanau.

Question

Where do people need to keep two metres away from each other and where do people only need to keep one metre away from each other?

Answer

In retail stores, supermarkets and marketplaces and in uncontrolled spaces, such as in parks and at the beach, two metres distancing applies. In other, controlled venues - such as museums, cinemas, stadiums and seated restaurants - one metre applies.

Question

Are people entering New Zealand still required to quarantine?

Answer

Yes.

Question

Can people with cold or flu-like symptoms travel, go to work or go shopping?

Answer

Yes. There is no legal requirement that prevents people with cold or flu-like symptoms travelling, going to work or going shopping. Shops may choose to decline entry to such customers and workplaces could send unwell staff home but Police do not have powers to enforce the general health advice that it is unwise and unhelpful to travel or attend public places when sick.

Question

Is there a person number limit for shopping malls?

Answer

No, however physical distancing of two metres applies.

Question

Can hairdressers and other close contact businesses open at Alert Level Two?

Answer

Yes. Close contact businesses can open at Alert Level Two providing contact tracing systems are operating (including the times that people enter and leave) and physical distancing rules are complied with.

Question

Are takeaway outlets required to still provide contactless pickup and delivery services?

Answer

No, although they (and their customers) may still wish to operate in a contactless way.

Question

Are bars, restaurants and cafes required to implement physical distancing and contact tracing?

Answer

Bars, restaurants and cafes can open but must ensure if customers are dining in that customers are **seated** (other than when entering, using a bathroom, paying or departing), there is **separation** between individual groups of at least one metre, customers are served at tables (not at counters) and are **served** by a single person. There is a maximum of 100 customers at any one time (this number doesn't include staff). Customer groupings are limited to a maximum of 10 people and contact tracing measures must be operating.

Question

Are workplaces required to ensure physical distancing and contact tracing measures in place?

Answer

Businesses are encouraged to use alternative ways of working if possible. However for people working onsite they must maintain a distance of one metre to the greatest extent practicable and have contact tracing in place.

Question

Can people travel between regions?

Answer

Yes. There is no restriction or enforcement activity for domestic travel at Alert Level Two. However people are advised to use their discretion.

Question

Can people travel anywhere in New Zealand for holidays and recreation?

Answer

Yes.

Question

Is recreational activities like walking, hunting biking, tramping, surfing, mountain biking, fishing, water-sports (including motorized boats and jet skis) allowed in Alert Level Two?

Answer

Yes, you can do your usual recreation activities. Public conservation land will be open to the public for walking, biking, and hunting but there are guidelines on the use of DOC huts and campgrounds. Check out the DOC website for details.

Question

When will duck shooting season start?

Answer

The duck shooting season starts on Saturday 23 May 2020.

Question

Can I stop a vehicle using the COVID-19 Public Health Response Act 2020 for Alert Level 2?

Answer

No. The Public Health Response Order 2020 does not provide for restriction of movement, therefore no power to stop a vehicle exists under Alert level 2.

7. Legal Powers

Legal powers – Response to Covid-19 Alert Level Two

13 May 2020

The Act establishes a legal framework for managing the ongoing response to COVID-19 at all Alert Levels.

There are powers in Act to make orders that are broadly based on the type of orders that have been made under the Health Act. Once an order is in place under the Act, powers and offences set in the Act apply. However, an order under the Act will not apply to specific individuals e.g. for a named person to be isolated or to submit themselves for medical examination. All such orders will still be made under the Health Act. In addition, Health Act orders remain in force for management of new arrivals at the border and there are transitional provisions in the Act for these (Schedule 1).

Constables are enforcement officers under the Act, along with other appointed people. However, some of the powers are specifically reserved for constables.

The Act also establishes an infringement regime. When an order is made, the Minister of Health may specify which breaches of the order are infringement offences.

The state of emergency under the Civil Defence Emergency Management Act 2002 (CDEMA) that has been in force since Wednesday 25 March expired on Wednesday 13 May at 1221hrs. It has been replaced by a national transition period for up to 90 days (unless extended). Police officers may rely on continuing powers under the CDEMA during the national transition period, in particular, the power to close roads and public places (s 94M), and the power to give directions to stop any activity that may cause or worsen an emergency (s 94N). With the new Act, the CDEMA should no longer need to be relied upon by Police.

The following is a summary of powers available under the Act.

Powers of entry (s20)

A constable may enter, without a warrant, any land, building, craft, or vehicle, or other place or thing if they have reasonable grounds to believe that a person is failing to comply with any aspect of an order. This power of entry does not apply to a private dwellinghouse.

A constable may enter a private dwellinghouse without warrant only 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 a direction under s21.

Reasonable force may be used to effect entry into or onto the land, building, craft, vehicle, place or other thing if, following a request, a person present refuses entry or does not allow entry within a reasonable time.

Where a warrantless power of entry is made, any constable who exercises that power must provide a written report to the Commissioner or a Police employee designated to receive reports of that kind by the Commissioner, as soon as practicable after the exercise of the power. The report 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.

If a marae is entered, a copy of the report referred to above must also be sent to the committee of the relevant marae.

Notes

- A power of entry into a dwellinghouse – where there are reasonable grounds to believe people have gathered there in contravention of an order - is only for the purpose of giving directions e.g. directing people to stop any activity that is

contravening an order or to leave the address. It is an offence (6mnths/\$4000) to fail to comply with a direction (s27(2) and (4)).

- Powers of entry to other locations is permitted if there is reasonable grounds to believe a person is not complying with an order. Directions may be given, but the sole purpose of entry is not restricted to giving directions.
- Use of force to enter may not be used unless a request for entry is refused.
- It is an offence (6mnths/\$4000) to obstruct, intentionally threaten, assault, or hinder an enforcement officer under the Act (s27(1) and (4)).

Power to give directions (s21)

If a constable has reasonable grounds to believe that a person is contravening or likely to contravene an order they 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.

Notes

- What is an appropriate direction will depend upon the restrictions imposed by an order e.g. a breach of an isolation order at Alert Level 4 might justify a direction for the person to return home. Whereas, a gathering in excess of the permitted number of people at a dwellinghouse at Alert Level 2 may only justify a direction that specified people leave the address.
- The ability to give directions underpins the enforcement regime. Directions must be reasonable and commensurate with the need to put the person back in a state of compliance with an order. A person must not be directed to do something that goes beyond putting them back in a state of compliance.
- For businesses or undertakings, be clear about their status and what restrictions/measures apply before taking enforcement action.
- If a person is issued an infringement notice, a direction may still be required to ensure compliance with the order.
- It is an offence (6mnths/\$4000) to fail to comply with a direction (s27(2) and (4)).

Power to close roads and public places and stop vehicles (s 22)

If an order prohibits/restricts public access, with or without vehicles, to any road or public place within an area specified in the order, a constable or enforcement officer acting under the authority of a constable may – for the purpose of enforcing the order - totally or partially restrict public access, with or without vehicles, to any road or public place in that area.

For the purpose of an order that provides for restriction of movement, a constable may stop a vehicle.

Sections 128 and 129 of the Search and Surveillance Act 2012 (duty to remain stopped and to provide information), with any necessary modifications apply.

Notes

- When a vehicle is stopped, you need to identify yourself by name or QID and advise the driver that the stop is for the purpose of enforcing compliance with the COVID-19 Public Health Response Act.
- It is an offence (6mnths/\$4000) to fail to stop (s27(3) and (4)).
- The definition of “public place” is the same as the Summary Offences Act 1981.

- At Alert Level 2 this power may not be justifiable/necessary, as there are not the same restrictions on movement.

Power to direct person to provide identifying information (s 23)

For the purposes of exercising powers, a constable may direct a person to give their full name, full address, date of birth, occupation, and telephone number, or any of those particulars that may be specified.

Notes

- Identifying particulars will be required for issuing formal warnings for breaches of orders or infringement notices under the Act. For vehicle stops, address information may also be necessary to confirm whether a person is complying with travel restrictions (if they exist).
- A person must be directed to provide identifying particulars. A failure to comply with that direction is an offence (6mnths/\$4000) (s27(2) and (4)).

Power to direct business or undertaking to close (s24)

If a constable has reasonable grounds to believe that a business or undertaking, or part of a business or undertaking, is operating in contravention of an order or contrary to any conditions imposed on its operation by an order, they may direct any person who appears to be in charge of the business or undertaking, or that part, to close and cease operation for up to 24 hours after the direction is given.

The owner/manager or person who received the direction may appeal to a District Court for revocation of the direction.

Notes

- This power may also be exercised by other enforcement officers under the Act.
- Consider whether a direction under s21 may result in compliance - before directing closure.
- The maximum period of closure is 24hrs, but a lesser period may be appropriate e.g. if compliance will be achieved after a specified period of time.
- It is a significant step to close a business/undertaking, so seek advice and consider your options before doing so.
- It is an offence (6mnths/\$4000) to fail to comply with a direction to close (s27(2) and (4)).

Directions may be given verbally or in writing (s25)

A direction may be given verbally or in writing.

Offences relating to compliance with orders (s26)

It is an offence (6mnths/\$4000) to intentionally fail to comply with an order. The infringement offence fee is \$300 (\$1000 where charging document filed).

Notes

- Power to arrest where a breach of an order is not an infringement offence.
- Be clear about what breaches of an order are infringement offences.

- Until an infringement regime is established, infringement offences can be proceeded with by way of summons and filing a charging document under section 14 of the Criminal Procedure Act (s28).
- There are no powers of arrest for infringement offences. However, if a person failed to provide identifying particulars after being directed to do so or failed to comply with other directions (s21), they could be arrested as a last resort (s27(2) and (4)).

Offences relating to exercise of enforcement powers (s27)

The offences referred to in the notes above are contained in this section, including the obstruction offence.

It is an offence to intentionally fail to comply with a direction, prohibition or restriction given or imposed under any of sections 21 to 24.

These offences are punishable by up to 6 months imprisonment or a fine not exceeding \$4000.

Notes

- Powers of arrest as a last resort.

APPENDIX A
Public Health Response Order
14 May 2020

The Public Health Response Order can be found by clicking the link:

<http://legislation.govt.nz/regulation/public/2020/0084/latest/LMS345237.html>