

In Confidence

Office of the Minister of Health

Cabinet

COVID-19: Giving an Epidemic Notice and Epidemic Management Notices under the Epidemic Preparedness Act 2006

Proposal

- 1 This paper provides Cabinet with visibility of a mechanism to ensure that, so far as is practicable, New Zealand legal framework remains fit for purpose in the evolving COVID-19 environment.
- 2 This paper outlines that process provided for under the Epidemic Preparedness Act 2006 to issue an Epidemic Notice and Epidemic Management Notices, and notes decisions are being sought from the Prime Minister and the Ministers for Social Development and Immigration.

Relation to government priorities

- 3 The Government is focused on effectively controlling the spread of COVID-19 in New Zealand.
- 4 Giving an Epidemic Notice is a management tool in the Government's response to COVID-19, and can help ensure the continuity of essential government services (and mitigate some unwanted effects of government action) in the changing COVID-19 environment.

Analysis

The rapidly changing COVID-19

- 5 With confirmed COVID-19 cases in 18 of the 20 District Health Board districts, it is critical that New Zealand acts decisively and rapidly to protect communities.
- 6 To support this, agencies need to be able to respond effectively, and in an agile way, as the situation continues to evolve.
- 7 The Government has chosen to go hard and go early in the response to COVID-19 for public health reasons. The package of measures introduced since 14 March have helped New Zealand take a precautionary approach to managing COVID-19.
- 8 Efforts to prepare for, and control the spread of, COVID-19 have caused disruption to government and business activity. Responding to the public health risks of COVID-19 at levels 1 and 2 of the COVID-19 alert framework have had significant flow-on implications outside of the health sector.
- 9 Agencies have been required to make significant adjustments to the welfare, immigration, policy and border control eco-systems. Disruption to business activities

has also been significant, with severe impacts being felt in service industries (especially tourism, hospitality and transport). Compliance pressures on businesses are also likely to increase under higher levels of alert.

Why the Epidemic Preparedness Act is relevant at this point in time?

- 10 The Epidemic Preparedness Act 2006 has powers to facilitate the management of epidemics or quarantinable diseases. These include giving an Epidemic Notice, and Epidemic Management Notices.
- 11 Giving an Epidemic Notice provides a platform to activate additional changes, or modify existing legislation, as the situation around COVID-19 continues.
- 12 The Prime Minister is considering give an Epidemic Notice to strengthen the government's ability to respond to COVID-19.

Epidemic Preparedness Act – further changes and modifications available

- 13 Once an Epidemic Notice is given, Epidemic Management Notices may be issued. Epidemic Management Notices trigger a number of other self-executing provisions in other enactments.
- 14 If the Prime Minister agrees, an Epidemic Notice would be published in the Gazette on Tuesday 24 March, to be tabled in Parliament as soon as practicable. The Notice would be discussed in Parliament as soon as possible.
- 15 The Director-General of Health has recommended that Epidemic Management Notice also be issued to ensure the continuity of social security and immigration services in the COVID-19 context. Other Epidemic Management Notices may be given to support continuity of other government services in the weeks to come.
- 16 In the coming weeks, other Ministers and agencies are likely to seek s15 orders to modify legislation, and in particular requirements and restrictions that may be impracticable to comply with in the context of an epidemic. I am aware that the Minister of Local Government will be seeking a modification notice to ensure Local Councils can continue to operate effectively at this time. Once an Epidemic Notice has been given, this can be done by Order in Council. Depending on the volume of requests, these may need to be streamlined and triaged. This will be managed between PCO and agencies.

Links with wider advice

- 17 CVD is receiving further advice about moving through the COVID-19 alert levels. The decisions regarding an Epidemic Notice are consistent with that advice.
- 18 Officials have also tested whether, from a legal perspective, it would be preferable to bypass the Epidemic Notice process and move straight to declaring a state of emergency under the CDEM Act.
- 19 While the CDEM Act has specific powers that may be required later in the COVID-19 response (e.g. entry onto premises or evacuations), the CDEM Act was not designed to address the flow-on implications Immigration New Zealand, the Ministry of Social

Development or Local Government Authorities are currently facing. This is set out in the Appendix.

- 20 The Epidemic Notice process is still recommended because the CDEM framework does not allow for modifications to other pieces of legislation. Officials will provide Cabinet with further advice if this assessment changes.

Recommendations

I recommend that Cabinet:

1. **Note** the Prime Minister has received advice from the Director-General of Health recommending she give an Epidemic Notice under section 5 of the Epidemic Preparedness Act 2006.
2. **Note** that the Prime Minister and may give an Epidemic Notice under section 5 of the Epidemic Preparedness Act 2006 if she feels the satisfied that the effects of COVID-19 are likely to disrupt or continue to disrupt essential governmental activity in New Zealand significantly.
3. **Note** that responding to the public health risks of COVID-19 at levels 1 and 2 of the national alert framework have had significant flow on implications outside of the health sector
4. **Note** that the rationale for giving an Epidemic Notice is based on the significant disruptions that efforts to prepare for, and control the spread of, COVID-19 have caused to government and business activity.
5. **Note** that once an Epidemic Notice is given, Epidemic Management Notices may be issued.
6. **Note** that the Ministers of Immigration and Social Development are looking to issue an Epidemic Management Notice to manage the pressures the COVID-19 response is putting on their respective legislative frameworks.
7. **Note** that once an Epidemic Notice is given, Modification Orders may also be issued under section 15 of the Epidemic Preparedness Act 2006 through Orders in Council.