

# Noting paper: COVID-19

## SELF-ISOLATION ORDER UNDER S70(1)(F) HEALTH ACT

<b>To</b>	Ad Hoc Cabinet Committee on COVID-19 Response		
<b>From</b>	Hon Dr David Clark, Minister of Health	<b>Date</b>	2/04/2020

### Purpose

1. This paper provides advice on the Director General of Health's proposed order under Section 70(1)(f) of the Health Act 1956 to require persons to be quarantined, giving effect to the Level 4 restrictions on self-isolation at home.
2. This paper includes:
  - a. draft notice of section 70(1)(f) of the Health Act [Appendix 1].

### Comment

3. On 24 March the Prime Minister issued, with the agreement of the Minister of Health, an Epidemic Notice under section 5 of the Epidemic Preparedness Act 2006. This allows for the use of special powers by Medical Officers of Health in accordance with section 70 of the Health Act 1956 for the purposes of preventing the outbreak and spread of COVID-19. To date these powers have been applied on a national basis to require premises to be closed with the exception of essential businesses and to prohibit mass gatherings (under section 70(1)(m)).
4. Central to New Zealand's Alert Level 4 "elimination strategy" for COVID-19 is a requirement that all people in New Zealand self-isolate at home unless they are essential workers. Initial reports from New Zealand Police and Healthline suggest that ten days on there have been good levels of community compliance with self-isolation. However, there continue to be people who are not adequately self-isolating, or who are unclear about the self-isolation requirements.
5. s 9(2)(h)
6. There is a significant risk that non-compliance with self-isolation will result in the continued transmission of COVID-19, frustrating the objectives of mass isolation, leading to continued public health risk and the need to extend Alert Level 4.
7. The Director-General of Health (Director-General) assesses that these risks warrant issuing the draft notice attached to this noting paper under section 70(1)(f) of the Health Act 1956 to require persons to be quarantined, giving further effect to the Level 4 restrictions on self-

isolation. Issuing this notice will underscore the importance of self-isolation and adherence to it, will confirm the advice provided in direct messaging to New Zealanders, and will assist NZ Police to give clear and consistent guidance to their frontline staff.

8. The draft notice aims to achieve the following:
  - a. Reflect and confirm the meaning of self-isolation;
  - b. Define the limits on movement outside of one's place of residence, i.e. for the purposes of providing or accessing essential services; for limited recreation; for managing 'shared bubble' arrangements; and for emergencies;
  - c. Reiterate powers that constables have to act reasonably to compel, enforce or ensure compliance with those rules; and
  - d. Set out an exhaustive set of exemptions from measures under the notice.
9. These powers would expire on 22 April, four weeks from 25 March, when the lockdown was initiated, unless otherwise revoked or extended.
10. The provisions of the notice have been aligned to be consistent with the existing public messaging to the public from the covid19.govt.nz website.
11. In the absence of an available vaccination or treatment (other than treatment for symptoms), the only effective strategies against COVID-19 and to reduce the number of infections, hospitalisations and deaths are to reduce mixing of susceptible and infectious people through early ascertainment of cases (testing and contact tracing) and reduction of contact. Modelling of the epidemic in New Zealand has analysed the extent of contact reduction over various timelines, accounting for different basic reproduction numbers that New Zealand would need to achieve in order to "flatten the epidemic curve" or indeed eliminate the virus, which is the current objective under Alert Level Four.
12. This modelling justifies taking a stringent approach towards physical distancing for the entire population on the basis that if the current eradication strategy fails then health outcomes for New Zealand could be very severe. This modelling reveals that the higher the level of compliance among the general population, the shorter the period of control would need to be. This is essentially the justification behind the current "Go hard. Go early" approach, which requires high compliance throughout the country.
13. In practice, this means that all people in New Zealand except essential workers should be confined to contact with only members of their defined "bubble" for the initial four week period. It is important that the legislative framework and more specifically, section 70(1)(f) enables the achievement of that high level of compliance.
14. The New Zealand Government's approach to date has focused on community-endorsed compliance, supported with strong communications and clear guidance, backed up by regulators who are willing and able to enforce using strong sanctions. The Prime Minister has previously reassured the public that they need not "police" their neighbours' adherence to the lockdown and that the government will play that role.
15. Issuing this notice will not fundamentally change that approach. Instead it aims to provide greater clarity around what is meant by self-isolation and to ensure that New Zealand Police have in place the necessary powers to clarify and enforce those rules, should that be required. On-going monitoring and review of the application of the order will be needed to ensure that

these time-bound enforcement powers do not undermine the current high levels of public support for taking stringent action to eliminate the virus.

16. The order to self-isolate would sit alongside other powers under the Civil Defence Emergency Management Act, such as the ability to close roads and public places and to direct any person to stop any activity that may cause or substantially contribute to an emergency.

17. The Director-General proposes issuing the notice following consultation with Ministers.

18. s 9(2)(h)

[REDACTED]

19. Included in the notice are clearly defined categories for exemptions to restriction on travel under s70(1)(f). These exemptions will allow for travel for compassionate reasons; to allow New Zealanders to return to their residence after returning from overseas; and to allow stranded foreign nationals to depart the country. A clear process for applying for an exemption will be documented on the covid19 website.

20. The notice has been drafted by Parliamentary Counsel Office and officials from the Ministry of Health have worked closely with the All of Government mechanism, Crown Law Office and New Zealand Police to ensure that the notice meets their needs and is consistent with the current policy of self-isolation.

## Recommendation

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It is recommended that the CVD committee:

21. **Note** that the Director-General of Health proposes to issue a notice under s70(1)(f) of the Health Act 1956.

22. **Note** that the Director-General of Health will establish a process for considering any requests for exemption from the requirements under s70(1)(f).