

COVID-19 Guidance Note – Preparing your business for moving between Alert Levels

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This note has been authored by the LexisNexis internal team.

This note was originally drafted on 20 April 2020 to provide guidance to businesses on the move from Alert Level 4 to Alert Level 3. It has now been amended to provide specific guidance on the move from Alert level 3 to Level 2. Guidance has also been provided, where possible, for future movements between Alert Levels. This note considers the practical steps businesses can take to prepare for moving between Alert Levels. It also highlights what workplace activities are permitted at each Alert Level.

On Monday 11 May 2020 the government announced that New Zealand would be transitioning to Level 2 protocols at 11.59pm on Wednesday 13 May. This move has now taken place.

At Alert Level 2 most businesses are able to open, but they must operate safely.

Guidelines for all businesses at all Alert Levels

To operate safely at all alert levels during the COVID-19 pandemic, businesses must comply with:

- settings for the current alert level (including public health measures);
- any appropriate public health requirements for their workplace (e.g. physical distancing); and
- all other health and safety obligations.

At all alert levels, businesses need to meet all public health guidelines. These include the following, although they may change over time:

- Regular disinfecting of surfaces.
- Encouraging good hand hygiene by allowing frequent hand washing and sanitising.
- Not having sick people in the workplace.
- Meeting physical distancing requirements.

For more information on the Alert Level rules, see:

<https://covid19.govt.nz/alert-system/>

The Ministry of Health has detailed guidance on [infectious disease control for workplaces](#).

Alert Level 3

At Alert Level 3, everyone must still work from home unless that is not possible. Workplaces can be reopened if the work cannot be done from home and the workplace can operate consistently with public health guidance. However, there cannot be contact with the public. For example, retail needs to be by contactless purchase and delivery, including drive-through and click and collect. Retail storefronts cannot open to customers (except supermarkets, dairies and petrol stations).

Some important things to remember at level 3 are:

- The focus moves from operating what is essential, to what is safe;
- Those who are at risk or vulnerable are still encouraged to stay home;
- Those who can learn or work from home are encouraged to do so;
- Travel restrictions move from local to regional, but travel should still only be for work, school or gathering essentials; and
- People should still stay home where possible and remain two metres from those outside their bubble.

The golden rules for life at Alert Level 3

1. **Stay home.** If you are not at work, school, exercising or getting essentials then you must be at home, the same as at Alert Level 4.
2. **Work and learn from home if you can.** The government stills wants the vast majority of people working from home, and children and young people learning from home. At-risk students and staff should also stay at home, and they will be supported to do so. Early learning centres and schools will physically be open for up to Year 10 for families that need them.
3. **Make your business COVID-19 safe.** COVID-19 has spread in workplaces, so the quid pro quo of being able to open is doing it in a way that doesn't spread the virus.
4. **Stay regional.** You can exercise at parks or beaches within your region, but the closer to home the better. Activities must be safe – keep 2 metres away from anybody not in your bubble. Make minimal trips.
5. **Keep your bubble as small as possible.** If you need to, you can expand your bubble a small amount to bring in close family, isolated people or caregivers.
6. **Wash your hands often with soap, then dry them.** Cough and sneeze into your elbow.
7. **If you are sick, stay at home and quickly seek advice from your GP or Healthline about getting a test.** There is no stigma to COVID-19. New Zealand will only be successful if everyone is willing to play their part in finding it wherever it is.

Workplace restrictions at Alert Level 3

To support the goal of eliminating COVID-19 from New Zealand, under Alert Level 3, workplaces can open if:

- Workers cannot work from home;
- Workplaces are operating safely (including meeting public health guidance and other health and safety obligations);
- Customers are not allowed on premises; and
- They can trade without contact with the public.

This means that Alert Level 3 allows many more businesses to resume operations than at Alert Level 4, such as construction, manufacturing and more primary industries. Retail and takeaway food services will also be able operate as long as there is no physical contact with customers. Any business that is unable to operate without physical contact with customers must remain closed. Examples include home cleaners, entertainment venues, bars, hairdressers and dine-in services.

Under Alert Level 3, all businesses that are either continuing or permitted to resume operations need to have a COVID-19 safety plan that sets out how they'll operate safely. Visit [Worksafe](#) to find out more:

- Guidance on preparing [your COVID-19 safety plan](#),
- Guidance on [preparing to transition from Alert Level 4](#)

Preparing a COVID-19 safety plan

Worksafe has prepared a [template safety plan](#) that business owners can download and complete as part of their preparations for transitioning between alert levels.

To ensure businesses are minimising the risk of COVID-19 appropriately, and that they can continue to operate safely, businesses need to consider the following questions:

1. Are there any risks arising, from restarting the business or a business activity that has been shut down during alert level 4, and how will these be managed?
2. How will your business ensure all workers know how and are able to keep themselves safe from exposure to COVID-19?
3. How will your business gather information on the wellness of workers to ensure that they are safe and well to work?
4. How will you operate your business in a way that keeps workers and others safe from exposure to COVID-19?
5. How will an exposure or suspected exposure to COVID-19 be managed?
6. How will you evaluate, and continuously review, whether your work processes or risk controls are effective?
7. How do any changes impact on the risks of the work your business does?

Duty to consult with workers

Under [s 58 of the Health and Safety Act 2015](#) Persons Conducting a Business or Undertaking (PCBUs) have a duty to engage with their workers or worker representatives about any matter that may directly impact their work health or safety.

58 Duty to engage with workers

- (1) A PCBU must, so far as is [reasonably practicable](#), engage with [workers](#)—
- a) *who carry out work for the business or undertaking; and*
 - b) *who are, or are likely to be, directly affected by a matter relating to work [health or safety](#).*

In relation to returning to work at Alert Level 3, or any other Alert Level, PCBUs should engage with workers and their worker representatives to determine what additional measures can be put in place to further protect workers. A copy of the Safety Plan should then be shared with all workers.

More guidance on engaging with workers can be found [here](#).

Alert Level 2

Restrictions remain in place in order to keep workers safe, particularly when interacting with customers.

Golden Rules for Alert Level 2

1. All businesses can operate if they can do so safely. Alternative ways of working are still encouraged where possible.
2. Talk with your workers to identify risks and ways to manage them.

3. Ask everyone, workers, contractors and customers, with cold or flu-like symptoms to stay away from your premises.
4. Keep groups of customers at least one metre apart, or two metres for retail businesses.
5. Keep contact-tracing records of anyone who will have close interaction (workers, contractors or customers). Retail businesses are not required to keep contact tracing records.
6. Reduce the number of shared surfaces, and regularly disinfect them.
7. Wash your hands. Wash your hands. Wash your hands.

Guidelines for all industries at Level 2

All workplaces:

- should keep records of workers on premises (or out working) to enable contact tracing
- should keep workers one metre apart where feasible
- must follow the hospitality rules below if they sell food and drink for consumption in the workplace
- must meet all other health, safety and hygiene requirements

Industry Guidance

Certain industries have also supplied specific guidance for staying safe as we move through the alert levels.

- Information for Primary Industries has been supplied by the Ministry for Primary Industries and can be found [here](#)
- The Ministry of Business, Innovation and Employment has supplied guidance for the building and construction industries [here](#)
- Further guidance for the Construction industry can be found in our [Guidance for the Construction industry at Alert Level 2 and above](#)

Physical distancing in the workplace

In any uncontrolled environments, for example interactions between the members of the public, a distance of two metres should be maintained.

However, workplaces are controlled environments, which means that Persons Conducting a Business or Undertaking (PCBUs) are able to manage risks in other ways. This could include instituting engineering controls (such as screens) or personal protective equipment (such as masks and gloves). When such measures are in place, it is possible to manage the risk sufficiently to allow smaller safe distances such as one metre. If it is not possible to implement effective controls, then two metres should remain the safest distance for workplaces.

In all cases, obligations under the [Health and Safety at Work Act 2015](#) to ensure the health and safety of workers and other people in the workplace, so far as is reasonably practicable, will apply. Regardless of the distance adopted, PCBUs need to take steps to mitigate risks (including thinking about measures such as disinfecting surfaces and practices to ensure workers don't come to work sick).

The [Ministry of Health](#) has issued [guidance](#) on what steps can be taken by workplaces to help to prevent the spread of infectious disease.

Alternative ways of working

Some alternative ways of working that businesses may consider to ensure that physical distancing can be maintained, include:

- Remote working (and if employees can work remotely, under Alert Level 3 they should do so).
- Shift-based working to limit the number of people on site.
- Staggering meal breaks.
- Flexible work arrangements.

If any alternative way of working involves changes to contracted hours or other employment conditions, this should be mutually agreed and negotiated in good faith between the employer and the employee.

Travelling to a workplace

Under Alert Level 4, employers and workers of essential businesses can travel to their workplace if it is in the same region in which they are currently living.

At Alert Level 3, people can move between regions to return to their home or place of work.

At Alert Level 2 normal domestic travel is permitted, although this is subject to some restrictions, for example, capacity restrictions on public transport.

Guidelines for specific industries when moving between Alert Levels

The Ministry for Business, Innovation and Employment has provided further guidelines for specific industries around whether they are able to operate at each Alert Level and what conditions may apply – these can be found [here](#). Guidance for certain industries is also outlined below:

Retail

At Alert Level 4, retailers can only sell essential non-food goods to customers by contactless delivery and to do so they must be registered with the Ministry of Business, Innovation and Employment as an [essential service](#). Supermarkets, dairies and petrol stations can keep their stores open for customers without any limit on the type of goods sold, but food and drink cannot be consumed on-site.

At Alert Level 3, retailers can sell any goods to customers by phone or online order. Orders must be fulfilled by contactless delivery or collection. Retailers cannot open a physical retail storefront to customers unless they are a supermarket, dairy or petrol station.

At Alert Level 2, retailers may open for customers to come into a physical store, subject to the public health measures required at those alert levels. Specific guidelines for retail stores are that they:

- must keep groups of customers two metres apart where feasible;
- are not required to keep records of customers; and
- must meet all other health, safety and hygiene requirements.

If any business or service by its nature requires less distancing, then they must record contact details for each customer so that they are able to contact trace.

Hospitality

Restaurants, bars and cafes cannot open their premises to customers at Alert Level 3 and 4. At Alert Level 4, they cannot sell any prepared food or beverages. At Alert Level 3, they can sell prepared food and non-alcoholic beverages by contactless delivery and collection (including drive-through).

Restaurants, bars and cafes can open at Alert Levels 1 and 2, subject to the public health measures required at both of those alert levels and restrictions on gatherings, which will include measures such as distancing between tables.

Specific guidance for Alert Level 2 includes that:

- cafes, restaurants and bars can open if they are serving meals;
- customers must be seated, groups separated by a one metre, and served by a single person;
- each customer must order a meal;
- each group of customers is capped at 10 people;
- there must be one metre between all groups of customers, or between individuals not in groups;
- there is a maximum of 100 customers in each distinct area;
- records must be kept to enable contact tracing of staff and customers. Apps which only store information on customers' devices do not meet this requirement; and
- all other health, safety and hygiene requirements must be met.

Additional guidance, from the Ministry for Primary Industries, for food businesses operating during Alert Level 3 can be found [here](#) and additional guidance for food business operating at Alert Level 2 can be found [here](#).

MPI has also provided a helpful checklist for food businesses wishing to open after Alert Level 4 has been lifted, which can be found [here](#).

Exercise facilities and classes

At Alert Levels 3 and 4, exercise facilities and classes can offer lessons remotely (for example, by video), but cannot open their premises.

At Alert Levels 1 and 2, exercise facilities and classes (including gyms, yoga studios and dance schools) can open, but they must follow public health guidelines.

Real estate

At Alert Level 4, real estate firms must close their offices and deliver their services remotely. Property management functions carried out in person must be limited to maintaining health and safety, and urgent repairs.

At Alert Level 3 real estate firms can open their offices for staff who cannot work from home. The firm cannot take in-person appointments with clients. Open homes cannot take place in person, but they can happen remotely. One-on-one viewings and pre-settlement inspections may be possible.

At Alert Levels 1 and 2, real estate firms can open their offices. Open homes can take place in person, subject to conditions on gatherings, including physical distancing and contact tracing requirements. Property management functions may be carried out in person.

People can move homes at Alert Level 3. This also includes rental moves. Travel between regions is permitted, and this includes using domestic air services for the purposes of moving homes. All freight can be moved around the country at Alert Level 3 and moving companies can operate so long as they do so safely.

Physical interactions involved in house sale, purchase and settlement should be done remotely where possible at Alert Level 3. It may be possible to do a final pre-settlement inspection in person, or to have a real estate agent come into the home, as long as all physical distancing and public health measures are followed.

Supermarkets, dairies and petrol stations

Supermarkets can remain open at all alert levels. Public health measures will mean there are some changes to how they operate, such as a capacity limit and physical distancing requirements.

Dairies and petrol stations can also remain open at all alert levels. At Alert Levels 3 and 4, customers can only go into dairies and petrol stations on a one-in-one-out basis. At Alert Level 4, they cannot sell food or drink that has been prepared or cooked on-site (for example, coffee or made-to-order sandwiches), but they can sell food that has been prepared and packaged off-site by a supplier (even if it needs heating, such as pies and sausage rolls). At Alert Level 3, prepared food and drink can be bought and sold, but cannot be consumed by customers onsite.

Health and beauty

Barbers, hairdressers, nail salons, waxing bars, eyebrow grooming shops and other similar services cannot open at Alert Levels 3 and 4. This also includes businesses going to people's homes to do these services. This restriction is because of the level of close, personal contact involved in these services, and the risk that would pose to public health.

At Alert Levels 1 and 2 these businesses may open but will be subject to the public health guidance for each of those levels.

At Alert Level 2 any businesses where physical contact with customers is necessary to provide their service must:

- keep records of customers for contact tracing; and
- take measures to mitigate the risks resulting from delivery of the services for staff and customers.

Tradespeople

At Alert Level 4 Plumbers, electricians and tradespeople can only do maintenance in customers' homes if it is to maintain the necessities of life or critical to safety. The relevant public health measures at Alert Level 4 must be met.

At Alert Levels 1, 2 and 3 plumbers, electricians and tradespeople can complete work on customers' property (for example, in their homes). The relevant public health measures at each alert level must be met. This includes the physical distancing requirements at Alert Levels 2 and 3.

Public venues (including museums, galleries, community centres, cinemas and swimming pools)

At Alert Levels 3 and 4 public venues must remain closed.

At Alert Level 2 public venues are permitted to open subject to the requirements that they:

- must keep records of all staff and customers and visitors on premises to enable contact tracing;
- must keep customers, or groups of customers, one metre apart;
- limit the number of customers or visitors gathering in one area to a maximum of 100 in cinemas, stadiums, concert venues, casinos and conference venues;
- cap each group of customers or visitors who know each other at 10 people; and
- must meet all other health, safety and hygiene requirements.