



# Epidemic Preparedness (Sale and Supply of Alcohol Act 2012—Licence Application Inquiries) Immediate Modification Order 2020

Patsy Reddy, Governor-General

## Order in Council

At Wellington this 16th day of April 2020

Present:

The Right Hon Jacinda Ardern presiding in Council

This order is made under section 15 of the Epidemic Preparedness Act 2006—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister of Justice made after being satisfied of the matters required by section 15(2)(b) of that Act and after receiving from the chief executive of the Ministry of Justice a written recommendation stating the matters required by section 15(2)(a) of that Act.

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## Order

### 1 Title

This order is the Epidemic Preparedness (Sale and Supply of Alcohol Act 2012—Licence Application Inquiries) Immediate Modification Order 2020.

### 2 Commencement

This order comes into force on the day after the date of its notification in the *Gazette*.

### 3 Enactment to which modifications made

This order modifies requirements imposed by the Sale and Supply of Alcohol Act 2012 (the **Act**).

### 4 Interpretation

In this order, unless the context otherwise requires,—

**end date** means the date on which the Epidemic Preparedness (COVID-19) Notice 2020 expires or is revoked

**licence** means a licence to which subpart 3 of Part 2 of the Act applies.

### 5 Licence applications to which modifications apply

The modifications in clauses 6 and 7 apply to a licence application—

- (a) sent to a constable or a Medical Officer of Health by the secretary under section 103; and
- (b) received by the constable or Medical Officer of Health while the Epidemic Preparedness (COVID-19) Notice 2020 is in force.

### 6 Requirement to inquire into licence application is modified

Section 103(3) and (4) of the Act applies as if it were replaced with:

- (3) The Police and the Medical Officer of Health—
  - (a) must each inquire into the application; and
  - (b) if either has any matters in opposition to it, must file with the licensing committee a report on it within 30 working days after the end date.
- (4) The licensing committee may decide an application for a licence only if it has received—
  - (a) a report from the Police; and
  - (b) a report from the Medical Officer of Health.

### 7 Requirement to inquire into licence renewal application is modified

Section 129 of the Act applies as if it were replaced with:

**129 Police, Medical Officer of Health, and inspector must inquire into application**

The obligations of the secretary, Police, Medical Officer of Health, and inspector set out in section 103 as modified by the Epidemic Preparedness (Sale and Supply of Alcohol Act 2012—Licence Application Inquiries) Immediate Modification Order 2020 apply to an application for a renewal of a licence.

**8 When modifications apply**

The modifications in clauses 6 and 7 apply from the date on which this order comes into force until the date on which the order is revoked.

**9 Revocation**

This order is revoked 30 working days after the end date.

Rachel Hayward,  
for the Clerk of the Executive Council.

**Explanatory note**

*This note is not part of the order, but is intended to indicate its general effect.*

This order is made under the Epidemic Preparedness Act 2006 and its effect is temporary. It comes into force on the day after the date of its notification in the *Gazette*. The order is revoked 30 working days after the date on which the Epidemic Preparedness (COVID-19) Notice 2020 expires or is revoked (the **end date**). It modifies restrictions and requirements imposed by the Sale and Supply of Alcohol Act 2012 (the **Act**) that may be impossible or impracticable to comply with during an epidemic.

The alcohol licensing regime is a devolved system. There are 67 individual district licensing committees (**DLCs**) that are responsible for determining licence applications in their district. DLCs are administered by local councils.

Section 103 of the Act requires the Police, a Medical Officer of Health, and an inspector to inquire into new alcohol licence applications. That obligation also applies to applications to renew alcohol licences under section 129 of the Act.

Under section 103(3) and (4) of the Act, the Police and the Medical Officer of Health must, if they have any matters in opposition to the application, file a report with the DLC within 15 working days. If no report is received, the DLC may assume that neither the Police nor the Medical Officer of Health oppose the application.

The Police and health services are essential services and are a key part of leading the country's response to the COVID-19 epidemic. The effects of COVID-19 mean that the resources of the Police and Medical Officers of Health are reprioritised to focus on the epidemic and it is likely to be impossible for these agencies to deploy suffi-

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cient resources to meet their statutory obligations under section 103 of the Act. In addition to resource implications, the Police and Medical Officers of Health are unable to visit premises, which is often part of the inquiry, as most premises are currently closed.

The policy intent of these provisions is to temporarily relieve the Police and Medical Officers of Health from those obligations while responding to the epidemic and its impact. The changes also ensure that licence applications and renewals are scrutinised by the Police and Medical Officers of Health but under a longer time frame than normal, to allow DLCs to make a decision based on all the available evidence.

The provisions have retrospective effect on licence applications that, on the commencement of this order, had not been decided by a DLC. This reflects the fact that the obligations became essentially impossible for Police and Medical Officers of Health to perform from 25 March 2020, and therefore retrospective application is a part of fulfilling the policy intention of the provisions. The impact of retrospectivity on applicants is likely to be marginal. It is unlikely that DLCs had sent many applications to Police and Medical Officers of Health after the time of the notice. The review of applications by Police and Medical Officers of Health is only one part of the licensing process that may not be able to progress as normal during the response to the COVID-19 epidemic.

Issued under the authority of the Legislation Act 2012.  
Date of notification in *Gazette*: 16 April 2020.  
This order is administered by the Ministry of Justice.

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Wellington, New Zealand:

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