

In Confidence

Office of the Minister of Health

Cabinet

Proposed Amendment to the Health Act 1956 - Novel Coronavirus

Proposal

1. I seek Cabinet's approval to amend Schedule 1 of the Health Act 1956 to include novel coronavirus as a notifiable disease and authorise the submission of the Infectious and Notifiable Diseases Order 2020 to the Executive Council.

Executive Summary

2. The novel coronavirus (2019-nCoV), is an infectious agent causing flu-like symptoms. It first came to official notice in Wuhan, China in December 2019 in a seafood and live animal market.
3. Information about case numbers and mortality is variable. As at 23-24 January 2020, there are approximately 580 confirmed cases of 2019-nCoV, and 17 deaths have been reported. There have been confirmed cases in other countries as well as China. New reports of the disease are being received daily.
4. There have been no cases of novel coronavirus so far reported in New Zealand, and the public health risk in New Zealand is considered low.¹ However, given the disease can be spread between humans as well as from animals to humans, and can be fatal, I am seeking approval to make the disease notifiable and to place it on Schedule 1 of the Health Act as a notifiable infectious disease.
5. In order to be able to most effectively identify, monitor and manage any cases of novel coronavirus that might arise in New Zealand, the disease must first be placed on Schedule 1 of the Health Act as a notifiable infectious disease.
6. The Order in Council would come into effect on 30 January 2020, subject to Cabinet's agreement to a waiver of the 28-day rule, on the basis that protecting public health in New Zealand warrants urgent action.

¹ This assessment has been made by the Ministry of Health's Incident Management Team.

Background

7. Coronaviruses are an extensive group of viruses that occur in animals and can be spread by contact with them. In rarer cases they can be spread by human to human transmission.
8. Coronaviruses can cause illnesses ranging from the common cold to severe diseases such as Middle East Respiratory Syndrome (MERS) and Severe Acute Respiratory Syndrome (SARS). SARS was a novel coronavirus when it broke out in China in 2002-2003 and spread across several countries infecting more than 8,000 people and killing approximately 800. MERS originated in Saudi Arabia and has so far resulted in over 750 deaths in 27 countries. Both SARS and MERS are already notifiable infectious diseases under Section B of Part 1 of Schedule 1 of the New Zealand Health Act.
9. In December 2019, a new strain of the coronavirus, not previously identified in humans, emerged in Wuhan, China. More needs to be known about this strain – such as which specific animals pose the animal to human infection risk and the transmission mode. So far, there is evidence that this novel strain of the coronavirus has similarities in gene sequence to SARS.
10. Common symptoms of the novel coronavirus include fatigue, high fever and respiratory symptoms (eg, sore throat, cough). In severe cases, the disease can cause breathing difficulties, pneumonia, severe acute respiratory syndrome, kidney failure and death. Immune compromised individuals have heightened infection risk.
11. On 20 January 2020, Chinese authorities confirmed there have been some cases of human to human transmission, with health workers exposed to cases of the strain having been infected.
12. The latest information as at 23-24 January 2020, is that approximately 580 confirmed cases of 2019-nCoV have been detected, and 17 deaths have been reported. Of the 571 confirmed cases in China, 95 have been reported as severe (not including the 17 reported deaths). A total of 5,897 close contacts have been identified in China, 969 have been released from medical observation, and 4,928 are still under medical observation. The recent significant increase in the number of cases has been partially due to increased surveillance and testing of cases. New reports of the disease are being received daily.
13. At this stage, the disease does not have a specific medical treatment or vaccine.
14. To date, while cases of human to human transmission have been reported, provisional information suggests the disease does not appear to be spread easily between people. At this stage, the Ministry of Health's Incident Management Team has assessed the risk of the disease being imported to New Zealand as low. However, the situation globally is changing daily and more needs to be known about the strain of the disease to determine how significant the public health risk is. In addition, symptoms can take up to two weeks from infection to develop.

15. With the information available to date, it is not possible to predict the future course of the current outbreak. s 9(2)(g)(i)

The World Health Organisation (WHO) is the lead agency for the interconnected but discrete processes for:

- graded emergencies (WHO administrative and mobilisation arrangements)
- public health emergency of international concern (PHEIC) under the International Health Regulations 2005 (a determination that allows WHO to issue formal recommendations to member states)
- pandemics (the global planning framework for which centres on the risk of influenza).

16. If a pandemic were to occur, WHO would provide guidance to affected countries and those not yet affected. New Zealand would activate the next steps in its long-standing and comprehensive *Influenza Pandemic Action Plan* (and adjust for the pathogen concerned) and would be able to draw on a whole of government and whole of society response framework, potentially including Epidemic Preparedness and Civil Defence Emergency Management legislation.

Comment

17. The situation described in this paper is as at 23-24 January 2020. More up-to-date information is provided in daily Ministry of Health situation reports to health and other agencies.

International situation

18. Countries other than China where the disease has so far appeared include the United States, Republic of Korea, Japan, Thailand and Singapore and there are suspected cases elsewhere.
19. On 10 January 2020, the WHO issued guidance to ensure all countries take precautionary measures to prevent the spread of the disease. This includes monitoring for ill individuals, testing samples, treating patients, controlling infections in health centres and communicating with the public about the disease. The Ministry of Health in New Zealand has been following and acting on this advice.
20. The WHO has advised that the risk of human to human transmission of coronaviruses increases in health care settings and, therefore, health professionals should adopt a cautious approach with patients who have symptoms of pneumonia and a history of travel to Wuhan.
21. An emergency committee arranged by the WHO discussed whether the infection risk posed by the novel coronavirus constitutes a public health emergency of international concern (PHEIC) under the International Health Regulations 2005 on 22 to 24 January 2020. At this stage a PHEIC has not been declared. The committee will be reconvening in ten days to take stock of the situation, or earlier if the WHO's Director-General considers it necessary. A multi-disciplinary team of experts is being established to monitor the situation, in what is currently described as an 'intermediate

alert' by the WHO.

22. The WHO has recommended that China:
 - 22.1 provide more information on cross-government risk management measures, including crisis management systems at national, provincial, and city levels, and other domestic measures
 - 22.2 enhance rational public health measures for containment and mitigation of the current outbreak
 - 22.3 enhance surveillance and active case finding across China, particularly during the Chinese New Year celebration
 - 22.4 collaborate with WHO and partners to conduct investigations to understand the epidemiology and the evolution of this outbreak
 - 22.5 continue to share full data on all cases with WHO, including genome sequences, and details of any health care worker infections or clusters
 - 22.6 conduct exit screening at international airports and ports in the affected provinces, with the aims early detection of symptomatic travellers for further evaluation and treatment, while minimizing interference with international traffic
 - 22.7 encourage screening at domestic airports, railway stations, and long-distance bus stations as necessary.
23. For other countries, the WHO has recommended all countries should be prepared for containment, including active surveillance, early detection, isolation and case management, contact tracing and prevention of onward spread of the coronavirus infection, and to share full data with WHO.
24. I will provide an oral update to Cabinet on any further advice from the WHO.

Australia

25. Two suspected cases have been reported in Australia, one each in Queensland and Victoria. The Queensland case has tested negative for the virus.
26. Australia is providing factsheets to passengers arriving on direct flights from Wuhan but is not undertaking thermal screening. New South Wales has listed 'novel coronavirus 2019' as a notifiable disease under its Public Health Act 2010, Schedule 2. This means that doctors and laboratories must report suspected cases to NSW Health. No cases have so far been detected in New South Wales.

New Zealand

27. At this time, there are no travel restrictions or other border measures in place in New Zealand in relation to this event. There are no direct flights between Wuhan and New Zealand.
28. The Ministry of Health is closely monitoring formal and informal information about the disease. It has increased preparedness to respond to suspected cases. The Ministry's response began on the 6th of January, with advice sent out to district health boards (DHBs) and general practitioners about the virus.
29. The Ministry has issued advice to front-line health workers, laboratories, border agencies and airlines, reminding workers in healthcare settings of the importance of infection prevention and control measures, identifying technical expertise available within New Zealand and regularly updating the Ministry of Health's and the Ministry of Foreign Affairs' Safe Travel websites.
30. The Ministry has issued national health advisories (including to DHBs and primary care) with background information on the novel coronavirus, and is drafting guidance for other health professionals. As well as monitoring formal (WHO) information sources, the Ministry is monitoring informal sources (eg, ProMed)² and its risk assessment will be revised if advice from WHO changes or new information emerges.
31. Public health staff are ensuring copies of the health advice card, in English and Chinese (simplified and traditional) are available at international points of entry. This provides general advice on symptoms of concern and advises ill travellers to call Healthline (a free health advice phone line) and mention their travel history. The company which manages 98 percent of cruise vessels will provide the health advice to vessels and ensure messaging is displayed in terminals, and arrangements for this are underway. Tourism Industry Aotearoa will work with the accommodation providers and tour inspectors to ensure health advice cards are available.
32. The Ministry has sent border advisories to border stakeholders (border agencies, airlines, shipping companies, airports, sea ports). This advice included the current WHO recommendations on public health measures and surveillance of influenza and severe acute respiratory infections:
 - 32.1 avoid close contact with people suffering acute respiratory infections
 - 32.2 frequently wash hands, especially after contact with ill people or their environment
avoid close contact with sick live farm animals or wild animals
 - 32.3 people with symptoms of acute respiratory infection should practice cough etiquette (maintain distance, cover coughs and sneezes with disposable tissues or clothing and wash hands).
33. The Ministry of Health Incident Management Team is in place and the Ministry is sharing information and working closely with international partners. In addition, the

² ProMed is an international group of experts providing infectious disease information on-line.

government's Interagency Pandemic Group was convened on 24 January 2020, to ensure New Zealand is prepared. The four objectives for the meeting were:

- 33.1 update agencies on the international situation, including latest advice from the World Health Organisation
 - 33.2 advise agencies about current activities the New Zealand Ministry of Health is undertaking and consideration of triggers and options for action should the situation escalate
 - 33.3 allow workstream leads to raise any key issues, risks or implications and ask questions regarding this virus
 - 33.4 confirm communications pathway.
34. On Thursday 23 January I asked the Director General of Health to make the necessary arrangements to have a physical public health presence at the border, including the possible placement of public health officials at major airports, if required.

Legislative framework

35. New Zealand's main statute for managing public health risks is the Health Act 1956. The provisions of the Act that relate to infectious disease notification to Medical Officers of Health, surveillance and management only apply to the diseases that are listed in the Schedules to the Act.³
36. The effect of placing the disease on the Schedule would be that health practitioners attending patients must notify the Medical Officers of Health in the district in question on reasonable suspicion that a person has an infectious disease (under s 74 Health Act). Heads of medical laboratories must also notify the Medical Officer of Health and the attending health practitioner of test results (s 74AA).
37. Under Part 3A of the Act, Medical Officers of Health have powers to investigate and manage individuals and contacts suspected of having or being exposed to infectious diseases listed on Schedule 1. The Medical Officers of Health powers include contact tracing to contain the spread of diseases, issuing mandatory directions, and applying for court orders restricting infected individuals' and their contacts' freedom of

³ For present purposes, sections 74, 74AA and definition of 'infectious disease' and 'notifiable disease' in section 2(1) of the Act.

movement and association. Through using these powers, officers can also ensure that suitable examination, monitoring and isolation measures are in place as required.

38. Section 3 of the Act allows the Governor-General by Order in Council to amend the Schedules to the Act, including in response to emerging disease threats. For example, MERS was added to Schedule 1 in September 2013.
39. As a precautionary measure for the current potentially significant disease threat, I propose to amend Section B of Part 1 of Schedule 1 of the Health Act to make infection with novel coronavirus a notifiable infectious disease.
40. At this stage, Ministry of Health officials do not consider the public health risk warrants additionally activating the quarantine powers in Part 4 of the Health Act. I have asked the Ministry of Health to actively monitor this situation and advise me of any changes in status. The Order in Council proposed in this paper will have the effect of better enabling infectious disease management of travellers on a case-by-case basis.

Consultation

41. The Department of Prime Minister and Cabinet and the Treasury have been consulted.

Financial Implications

42. There are no financial implications arising from the proposal itself, which is to make an existing legislative mechanism applicable to a new disease. However, in the event that the novel coronavirus arrives in New Zealand, the financial implications would be managed in the usual way for emergency responses, that is, funded from within district health board and Vote Health baselines in the first instance.

Legislative Implications

43. Subject to Cabinet's agreement, an Order amending the Schedule drafted by Parliamentary Counsel for submission to the Executive Council.
44. I am seeking a waiver of the 28-day period before the Amendment can come into force, on the basis of an urgent need to address the public health risk the novel coronavirus poses. Subject to Cabinet's agreement, this would mean the Order in Council will come into effect on 30 January 2020.

Regulations Review Committee

45. There are no grounds for the Regulations Review Committee to draw the proposed Order in Council to the House of Representatives under Standing Order 319.

Certification by Parliamentary Counsel

46. The proposed Order in Council was certified by the Parliamentary Counsel Office as being in order for submission to Cabinet.

Regulatory Impact Analysis

47. The Regulatory Quality Team at the Treasury has determined that a Regulatory Impact Analysis is not required. The proposal meets the criteria for an exemption from the requirements for a Regulatory Impact Analysis. This is because the proposal adds a further disease to an existing legislative list of diseases and in itself has no, or only minor, impacts for businesses, individuals or not-for-profit entities.

Human rights implications

48. There are human rights implications arising from this paper although nothing in it is inconsistent with the New Zealand Bill of Rights Act 1990 due to the limits on the right being reasonable limits justified under section 5 of the Act. Nothing in the paper is inconsistent with the Human Rights Act 1993.
49. This proposal does not create any new powers, but would extend the Medical Officers of Health's infectious disease management powers in the Health Act to cases who have been infected with the novel coronavirus and to their contacts.

Gender implications

50. None of the proposals in this paper have gender implications.

Disability Perspective

51. None of the proposals in this paper have disability implications.

Compliance

52. The Order in Council complies with:
- 52.1 the principles of the Treaty of Waitangi;
 - 52.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990
 - 52.3 the human rights contained in the Human Rights Act 1993;
 - 52.4 the principles and guidelines set out in the Privacy Act 1993;
 - 52.5 relevant international standards and obligations;
 - 52.6 the Legislation Design and Advisory Committee Legislation Guidelines (2018).

Proactive release

53. Once Cabinet decisions have been made, the Ministry of Health will proactively release this paper on its website with any redactions that may apply under the Official Information Act 1982.

Publicity

54. Subject to Cabinet's agreement to the proposed amendment to the Schedule of the Health Act, notice of it will be disseminated to public health officers, border agencies and other border stakeholders, using established communication channels.
55. My office will coordinate with the Ministry of Health regarding any general publicity.

Recommendations

I recommend that Cabinet:

1. **note** that while the risk of spread to New Zealand is low, the current outbreak in China of novel coronavirus is capable of being transmitted between human beings and poses a potentially serious risk to public health;
2. **note** that the infectious disease notification and management provisions in the Health Act 1956 apply only to named infectious diseases as specified in Schedule 1 of the Act;
3. **agree** that Section B of Part 1 of Schedule 1 of the Health Act 1956 is the correct placement for novel coronavirus capable of causing severe respiratory illness, in order to make the disease notifiable to the Medical Officer of Health and apply the disease management provisions in Part 3A of the Act;
4. **note** that the Infectious and Notifiable Diseases Order 2020 will give effect to the decision referred to in recommendation 3 above;
5. **authorise** the submission to the Executive Council of the Infectious and Notifiable Diseases Order 2020;
6. **agree** to a waiver of the 28-day rule so that the Order in Council can come into force as soon as possible on the basis that urgent action is warranted to address the public health risk of transmission of the novel coronavirus in New Zealand;
7. **note** that the Order in Council would come into effect on 30 January 2020.

Authorised for lodgement

Hon Dr David Clark
Minister for Health