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**COVID 19 Public Health Response Amendment Bill No 2**

**Submission by Voices for Freedom**

*10 October 2021*

**Submission on the COVID 19 Public Health Response Amendment Bill No 2 by Voices for Freedom**

1. **Introduction**
   1. Voices for Freedom welcomes the opportunity to make a submission on the Ministry of Health's proposals to amend the law in respect to the *Covid 19 Health Public Health Response Act 2020* (**the Covid Act**) by way of the *COVID-19 Public Health Response Amendment Bill (No 2)* (**the** **Bill**).
   2. Voices for Freedom is an independent, grassroots organisation founded by three individuals in December 2020 and stands for honesty, sound science, true government transparency, a proper health response and the freedom for New Zealanders to choose what is right. We stand for individual freedoms, including medical freedom and freedom of speech.
   3. The Bill’s stated aim is *“to enable the public health response to Covid-19 to continue to function in a co-ordinated and orderly way, informed by the experience of working with the Act since its commencement”.* However, the primary effect of the proposal will be to further extend the government's powers which have thus far proven to be inept in the management of Covid-19.
   4. These submissions are structured as follows:

1. Introduction

2. Unacceptable consultation process

3. Summary of recommendations

4. History of the Covid legislation and general overview of fundamental principles of freedom and liberty in a democratic society

5. The provisions of the original Act

6. Proposed amendments to the Covid-19 Public Health Response Act 2020

7. Accountability

8. Hindsight and up-to-date data 18 months on and solutions

Schedule A – Examples of what is wrong with the Act and the Bill.

Schedule B – Alternatives

* 1. Voices for Freedom seeks to be heard in person on the Bill.

1. **Unacceptable Consultation Process**
   1. In the words of Dean Ornish regarding democracy:

*"…power corrupts, and any time you have too much power concentrated in one place, it tends to get abused,* ***so checks and balances are always needed****.* (emphasis added)

* 1. There is no greater time for checks and balances of the legislation and orders that are being steam rolled by the Government under the guise of the Covid pandemic. Further, there is no excuse not to have such checks and balances.
  2. We wish to record our objection to the lack of consultation and the short timeframe (just 12 days) for making a submission through the Select Committee process. We see no justification for the haste with which changes are sought. Any person or group wishing to submit on a bill needs enough time to read the proposed legislation and prepare a considered response. This has not been provided.
  3. Voices for Freedom notes that the Attorney General appears to have misdirected himself with respect to considering the Bill and its consistency or otherwise with the Bill of Rights Act 1990 (**BORA**) because he has only considered the proportionality of the measures set out in the Bill with concerning issues arising from Managed Isolation and Quarantine Facilities (**MIQF**) and not in relation to the impact of the measures on citizens of New Zealand as a whole[[1]](#footnote-1).
  4. We also note that from a historical perspective the Ministry of Health’s Regulatory Impact Statement[[2]](#footnote-2) is incorrect. This is because it concludes that “the magnitude of the impact will be scaled so that the regime sits well in context of other infringement regimes in New Zealand” and confirms that *“the intention is that the degree of penalty would be commensurate with the degree of non-compliance.”* However, as is clear from this paper, the fees contemplated were nowhere near what has been arrived at in the present Bill.[[3]](#footnote-3)
  5. The Bill attacks the civil liberties of all New Zealanders whether currently in New Zealand or stranded overseas and trying to return. The control orders envisaged by the Bill run counter to a number of rights protected by the BORA. These rights are fundamental.
  6. We particularly condemn the amendments sought in respect of the massive increase in fees and fines, which are both unreasonable and irrational and out of all proportion to the purpose they seek to achieve.

1. **Summary Of Recommendations**
   1. Voices For Freedom makes the following recommendations and oppositions:
   2. recommends that the Bill be withdrawn;
   3. strongly opposes any extension to May 2023 of the original provisions in Covid Act, which were due to expire in May 2022;
   4. strongly opposes any and all additional powers proposed in the Bill.
2. **History Of The Covid Legislation And General Overview Of Fundamental Principles Of Freedom And Liberty In A Democratic Society**
   1. The measures that form the Covid Act were hastily passed through the house over two days in May 2020 and constitute a draconian, undemocratically administered, disproportionate, unmeasured and reactionary response to a threat as must surely ever have been seen in this country to date.
   2. They were described by the Ministry of Justice in a letter to the then acting Attorney General as:

*"[A]rguably the most extreme and significant limitations on New Zealanders’ ability to freely go about our daily lives as has occurred in modern New Zealand history. Their broad scale and scope have the potential to significantly impact on people’s ability to socialise, do business, and move freely."*[[4]](#footnote-4)

* 1. As referred to by many Members of Parliament the propensity of this Government to subvert democracy and avoid scrutiny is becoming its legacy. For example, David Seymour, Michael Woodhouse, Chris Bishop, Mark Cameron, Penny Simmons and Nicola Willis all refer to the absence of democratic process in relation to this Bill.
  2. It is an abrogation of democracy to exclude a Select Committee process (and therefore public submissions on the original Covid Act) and to then deal with this amendment of the Covid Act under urgency (including shortening the timeframe for submissions to not only extend the Covid Act, but to add additional draconian measures). It is behaviour more akin to a totalitarian regime.
  3. The Covid Act was described as a temporary measure, with a 90-day break clause wherein it would lapse if there were no motion to keep it in place. And it was due to repeal in May 2022 automatically. As Nicola Willis (National) commented: “When the Government first locked down in 2020, did anyone think the draconian powers would be justified for three years?"[[5]](#footnote-5)
  4. The Covid Act removes fundamental freedoms afforded a democratic society enshrined after the atrocities of World War II. These are found in the BORA, the International Convention on Civil and Political Rights (ratified by New Zealand in 1978), the Nuremberg Code and other International Treaties. These rights go to the heart of a humane society and were fought for at great cost by New Zealand citizens.
  5. This Government has demonstrated, amongst other things, that it is the least open and transparent New Zealand Government in history. It either does not understand or instead chooses to ignore the Rule of Law. New Zealand is in a dangerous and precarious situation. If the Rule of Law is not upheld, there is real potential for the Government to utilise unfettered power without checks and balances. It then rules, rather than is accountable, to the people it should serve.
  6. Finally, the Bill does not aim to correct any of the breaches or incursions on fundamental rights created with the Covid Act. Instead, it looks to build on those incursions yet further, cementing an oppressive and abhorrent regime on a country of already compliant citizens who are operating from a place driven by propaganda and fear.
  7. The Government’s response to date has been disproportionate to any actual risk from Covid. We question whether the Act and this further response contained in the Bill illustrate that the Government is less convinced of the real risks of Covid-19 and instead, more concerned with the risks posed by ‘free’ citizens.
  8. It is an embarrassment to the presiding government to perpetuate this fear that it has developed amongst New Zealand citizens by expanding upon a rushed piece of legislation that fails basic premises of democracy. It had the time and opportunity to learn from the rest of the world and has ignored world experience to the detriment of New Zealanders.

**The Rule of Law**

* 1. The Rule of Law is a fundamental cornerstone of any Westminster based democracy.
  2. The Legislative Design and Advisory Committee[[6]](#footnote-6) set out in its Guidelines why the Rule of Law is fundamental to the New Zealand laws, constitutional principles and values. The origins of which exist in common law and are reflected in statutes, the Cabinet Manual and ancient English statutes such as the Magna Carta 1297.
  3. Lord Denning described the Magna Carta as:

“*The greatest constitutional document of all times – the foundation of the freedom of the individual against the arbitrary authority of the despot.*"

* 1. Indeed, the Rule of Law principles, confer, limit and regulate the state’s power to ensure democracy is retained. The Rule of Law’s core principles are discussed by the Legislative and Advisory Committee are discussed set out below.

*Everyone is subject to the law, including the Government:*

* 1. This Government does not have an impressive track-record staying within legal limits, particularly regarding measures relating to Covid-19. Evidence the first nine days of lockdown and the subsequent breach of the Medicines Act 1981 during the initial phase of the vaccine rollout (a breach only purportedly remedied by retrospective legislation).
  2. The least that can be expected from a Government is to follow the law otherwise, the result is an abuse of power. The principle is stated in the following terms:

*"[I]nstitutions that wield power must do so within legal limits."*

* 1. The multiple examples of failure to wield power within legal limits either through ignorance or arrogance undermines confidence in this Government’s ability to understand the complex nature and consequences of this proposed legislation.

*The law should be clear and clearly enforceable:*

* 1. The law should be publicly accessible and able to be easily understood by all to whom it applies. Rights and obligations need to be matched with enforcement mechanisms (civil or criminal) and remedies so that people and/or the state can enforce them.

*Legislation should be consistent with the dignity of the individual and the presumption in favour of liberty:*

* 1. Chapter 6 of the Guidelines discuss the importance of obtaining legal advice where legislation will affect fundamental freedoms protected under the Rule of Law. Any restrictions on rights and freedoms - or “limits”, as they are called in the BORA - must be able to be “demonstrably justified” as “reasonable limits” in a “free and democratic society” (section 5 of the BORA).[[7]](#footnote-7)

1. **The Provisions Of The Original Act** 
   1. Under the Covid Act, unelected officials ‘and the Minister as described in section 9', have far reaching powers. They can make orders, including ordering citizens to stay in a specified place, preventing freedom of movement, closing businesses, ordering isolation, or quarantine anywhere in any specified way, no gathering and forcing medical procedures contrary to International Law. The power to lock down the country or parts of it are facilitated under these provisions in section 11.
   2. Section 20 allows a Constable to enter a person’s private dwelling without a warrant. The breach of the principle that a person may exclude the Crown from a person’s home has its origin in common law. To override this freedom is a fundamental breach of liberty. Police have to get a warrant to enter a person’s home to preserve the proper and necessary checks and balances for the citizen. Otherwise, an abuse of power can ensue. There are only very limited circumstances where police can apply to override this principle. There is no such limitation to police powers in the Covid Act.
   3. The abrogation of fundamental freedoms in the Covid Act is the antithesis of the innate requirements of humans to socially interact and connect and detrimental not only to the cohesion of society but also to its physical and mental health. It has led to the inhumane torture of those who have been denied the once in a lifetime opportunity to hold the hand of their loved ones while they die. This shocking denial of human decency has occurred for a virus with a death rate of less than 1%.[[8]](#footnote-8) [[9]](#footnote-9) It has also caused untold destruction to the New Zealand economy.[[10]](#footnote-10)”Keep them safe” has prevented treatment for a multitude of illnesses (leading in some cases to death due to lack of treatment) and the negative repercussions will impact these same citizens for decades.
2. **Proposed Amendments to the Covid-19 Public Health Response Act 2020** 
   1. The Government is repeating its disdain for democracy by failing to allow for fair consultation with its people. It is doing this by once again seeking to subvert proper scrutiny of the Covid Act. The Government seeks to extend the Covid Act by a further 12 months and force further abysmal and draconian provisions on a population that has to date complied voluntarily with the measures imposed. It is obvious fear has been an effective, incessant propaganda tool.
   2. The following areas are of particular concern:

***Clause 4(3) amends Section 3 - Extends the period of time that Act is in force:***

* 1. Clause 4(3) extends the period of time the Act is in force for a further year until 13 May 2023. Already the Covid Act has been in existence beyond the period of any real health emergency. To maintain such powers of segregation, intimidation and detention equates to at least maintaining a totalitarian regime.
  2. Covid-19 is a viral infection, which the Government has sought to manage through measures in furtherance of a policy of elimination. Eradication was never, and is certainly no longer, possible.
  3. The best approach for the greater good for all New Zealand would be equipping our hospitals and health care facilities to care and support the vulnerable, while letting the remainder of New Zealand's citizens get back to work, school and productive lives (with appropriate responsive restrictions based on scientific evidence and real-world data rather than modelling). In other words, focus on the vulnerable and let the healthy get on with their lives.[[11]](#footnote-11)

***Clause 7 replaces section 11, which is the primary empowering section for COVID-19 orders:***

* 1. Clause 7 amends the original section 11 of the Covid Act by adding significant further provisions. One such provision, section 11(4), provides that goods prohibited from entering a port or place by a COVID-19 order are prohibited imports for the purposes of the Customs and Excise Act 2018.
  2. This provision is unjustified and contrary to the public interest and the rights and obligations of the medical profession. It appears to be a means to prohibit the import of antigen tests and safe and effective medications effectively and efficiently adopted and utilised by many other countries (such as India in their early treatment protocols). And it illustrates the preference to not effectively, aptly or humanely respond to Covid-19. The clear intention to thwart early detection and ban early treatment with tried and tested generic alternatives (in combination) clearly illustrates that the measures legislated for are not about the health of New Zealand citizens but control for other purposes.

***Clause 9 replaces section 12, general provisions dealing with the scope of COVID-19 orders:***

* 1. Clause 9 replaces section 12. The proposals are subjective and vague and seek to confer a right on Government to make any order, impose any restriction, decide any detainment, and restrict any treatment other than such treatment as the government should determine. Whilst at the same time bamboozling the average person.
  2. Cabinet has adopted the Legislative Design and Advisory Committee Guidelines as the Government's key point of reference for assessing whether draft legislation is consistent with accepted legal and constitutional principles. And as we have seen, they include a fundamental principle of the Rule of Law, which specifies that the law should be clear and understandable. Therefore, under the core principles of these Guidelines, the proposed legislation fails for not being clear and understandable.

***Clause 10 amends section 13, which states the effect of COVID-19 orders:***

* 1. Under clause 10(b) the Minister’s ability to use delegated legislation to delegate discretion to any third party is contrary to the Rule of Law and public law principles. Further, the provision is subjective and vague and therefore fails this fundamental constitutional principle test.
  2. It is also contrary to constitutional convention to change the law while proceedings are before the Courts.[[12]](#footnote-12)

***Clause 12 amends Section 22 (Power to close roads and public places and stop vehicles):***

* 1. Clause 12 amends section 22 to allow a class of persons identified solely by their ancestry[[13]](#footnote-13) to have powers to block roads under the ’supervision’ of a constable, but there is no definition of what ‘supervision’ entails. There is no information or direction in the Bill or otherwise as to what constitutes ’suitably qualified and trained’ – with the suggested empowering provisions conjuring the vision of a 'Dad's Army'. This is unworkable and unacceptable.
  2. Only the police have the power to stop the general public and this is because they are subject to intensive training and accountability. This provision is in contravention of the Rule of Law principles that everyone is equal before the law. And therefore this is yet further breach of one of the core principles as defined by the Legislative Design and Advisory Committee.[[14]](#footnote-14)

***Clause 13 replaces section 26, offences relating to compliance with orders:***

* 1. Clause 13 proposes increasing the fines by a colossal amount making them unequitable and beyond any level of appropriate or reasonable punishment. The changes proposed regarding fines are outrageous and warrant that a significant part of our submissions be focused on them.
  2. The changes would see a 13-fold increase in on-the-spot infringement fines for non-compliance with orders (from $300 to $4000 for an individual and $12,000 for a body corporate).
  3. If a person disputes their infringement notice in Court (or if the infringement is filed in the Courts rather than simply served by way of notice), then the maximum fine that can be imposed trebles to a preposterous $12,000 for an individual (and $15,000 for a body corporate).
  4. At the same time, there is a threefold increase with respect to offences where intent is established, rising from a fine of $4000 to $12,000 for an individual or $15,000 for a body corporate (alongside a term of imprisonment).
  5. These fees and fines are not proportionate and not warranted given the high level of compliance from the general public under the current alert levels. Further, they breach section 4 of the original Covid Act that specifies that measures are "orderly, coordinated and proportionate". Human Rights are not suspended, as acknowledged in the original Covid Act. These proposals transgress the minimum necessary to protect public health aims and instead into the realm of deprivation and punitive action.
  6. The question has to be asked - how would this work in practice? An ’enforcement officer’ (most likely police in the case of Covid orders) may issue an infringement notice if the officer “believes on reasonable grounds that a person is committing, or has committed, an infringement offence”. This officer is not required to speak to the alleged offender. Fines can be issued in much the same way as a person is issued a parking ticket. The first the person may be aware of his or her obligation to pay $4,000 for an alleged breach could well be weeks later when the person receives a notification in the mail.
  7. The effect of such colossal fines has been eloquently summarised in an Auckland District Law Society's recent article authored by Auckland lawyer Nathan Batts[[15]](#footnote-15):

*"Whether you intended to breach a rule, or even knew you had is entirely irrelevant. An enforcement agency does not need to prove an infringement against you unless you go to the trouble of formally disputing it in Court. If you do nothing about the infringement notice and do not pay the $4,000 in full by its due date, then it is referred to the Ministry of Justice for enforcement, at which point it is treated as a fine.*

*Infringement offences subject to these types of notices include:*

* *failure to display a QR code ($12,000 fee for a company);*
* *failure to wear a face covering when required;*
* *failure to physically distance (2m) at alert levels 3 and 4;*
* *exercising somewhere not ‘readily accessible’ from your home during alert levels 3 or 4; and*
* *swimming, surfing or tramping at alert level 4.*

*An enforcement officer tasked with issuing infringements has no discretion as to the level of fee he or she can impose, based on the perceived seriousness of the breach. It’s $4,000. Period. As an infringement, anything from an unwitting error to a sustained and intentional breach will attract the same $4,000 fee.*

*Police officers tasked with issuing these infringements will, one hopes, be acutely aware of the potentially devastating effect liability to pay such a fee could have on many New Zealanders. Placing such a burden on frontline policing staff is unlikely to be a productive exercise and may well result in the unprincipled exercise of police discretion to avoid imposing this fee.*

*The proposed amendment bill does allow for the enactment of regulations that identify infringement fees less than the $4,000 default, and that prescribe different penalties for different infringement offences. How and if such regulations are utilised to mitigate the effects of the default $4,000 fee is, of course, yet to be seen. The Prime Minister’s media statement certainly did not indicate that the Government was contemplating lesser infringement fees.*

*One centrally important question is, who is most likely to bear the brunt of the financial burden of these colossal infringement fees?*

*The people most likely to be on the receiving end of these fees are those most unable to pay, those for whom lockdowns have probably already been financially ruinous. We know, for example, that Māori, who make up only 16.5% of the total population, are significantly overrepresented in the criminal justice system. Based on this reality, we can probably assume that liability for these increased fees will rest disproportionately on Māori, at least.*

*This is not simply speculation. Again, we can look to our neighbours. The Victorian and New South Wales Governments in Australia were early adopters of very high monetary penalties for Covid restrictions rule-breakers. This has not worked well for them.*

*On 15 September 2021, an open letter with more than 100 signatories was delivered to NSW Premier, Gladys Berejiklian.*

*Signatories included heads of community law centres and the NSW Aboriginal Legal Service. The letter is headed A call to address unjust Covid-19 fines. One of the primary motivations for the letter was concerns ‘about the impact of Covid-19 fines on vulnerable people and communities in NSW’. The letter observes that as a result of excessive fines, people experiencing disadvantage already and suffering from the economic impact of Covid-19 risk being plunged further into debt.*

*The letter calls on the NSW Government to ‘reduce the use of policing and fines to ensure compliance with public health orders and invest more heavily in non-punitive approaches’. It calls specifically for a reduction in the excessive levels of the fines. The letter continues:*

*‘These new public health orders have been introduced and amended at a rapid pace. Their legal elements are complex and difficult to understand. This has inevitably resulted in confusion among some members of the public about their rights and responsibilities...’*

*Sound familiar? In terms of the impact on the fines on the criminally over-represented Aboriginal community, the letter states:*

*‘The excessive use of fines against Aboriginal and Torres Strait Islander people and communities in NSW also has the potential to further entrench disadvantage and exacerbate negative relationships between Aboriginal communities and the police.’*

*The letter concludes with the rather blunt statement that ‘we cannot fine our way out of the pandemic’.*

*Our Government would do well to heed this warning. All the signals are that the proposed fees and fine hikes will be counter-productive and do more damage than good."*

* 1. Simply put, the amendments sought in respect of the massive increase in fees and fines are unreasonable, irrational and out of all proportion to the purpose they seek to achieve. They are yet another example of our government seeking to undermine the Rule of Law.
  2. Several regulatory impact statements have been prepared attempting to show the increase in fees and fines as reasonable. However, these are flawed as discussed below with reference to two of the reports:

1. *Ministry of Health Regulatory Impact Report*

The Ministry of Health’s Regulatory Impact Statement[[16]](#footnote-16) is incorrect from a historical perspective. It concludes that “*the magnitude of the impact will be scaled so that the regime sits well in context with other infringement regimes in New Zealand*” and confirms that *“the intention is that the degree of penalty would be commensurate with the degree of non-compliance.”* However, as is clear from this paper, the fees contemplated are nowhere near that contained in current Bill.[[17]](#footnote-17)

1. *Report of the Attorney General under the New Zealand Bill of Rights Act 1990*

The Attorney General’s report acknowledged that “penalties in the Bill are higher than those generally recommended for infringement offences”. It further acknowledges that: “The Legislation Guidelines set out that, in general, infringement fees should not exceed $1,000.” There do exist infringement provisions in New Zealand legislation that impose penalties in excess of $1,000. However, again the report noted that the Guidelines state that “these are exceptions to the general principle and should not operate as precedents for new infringement offence regimes”.[[18]](#footnote-18)

Voices for Freedom notes that the Attorney General appears to have misdirected himself with respect to considering the Bill and its consistency or otherwise with the BORA because despite his acknowledgements as above only considered the proportionality of the measures set out in the Bill as relates to MIQF and not in relation to the impact of the measures on New Zealanders in the wider community[[19]](#footnote-19).

***Clause 23 replaces Section 33 (regulations):***

* 1. Clause 23 replacing the original section 33 is opposed. The powers are too wide and confusing. The powers breach the Rule of Law principle that the law should be clear. With respect to the increase in fines and infringements, the comments above in this submission are repeated.

***Clause 25 inserting new Section 33B and 33C:***

* 1. Clause 25 inserting a new section 33B. Power to incorporate material by reference to Covid-19 orders will further add to the confusion about what the law is and its accessibility. Many standards are difficult to access publicly. The orders are already long, complex and rapidly changing. It is impossible for people to respect the law when they cannot readily access and understand it. This is a breach of the Rule of Law principle above, that the law should be clear and clearly enforceable.

***Clause 22 inserts new subpart 3B – Management of MIQFs and other places of isolation or quarantine:***

* 1. The proposed rules for MIQ are horrifying and completely abhorrent in a civilized democracy. Further, the increase and extension of powers in MIQ are unnecessary.
  2. New powers include delegating the powers of the Director General in MIQ to an unelected official, the Chief Executive.
  3. The powers of the Chief Executive are absolute in that there is a requirement at 32P(2) that persons in MIQ must comply with any direction or conditions imposed by the Chief Executive. This power has the potential for directions, which are not reasonable and proportionate in terms of any risk.
  4. The Chief Executive can prohibit going outside for fresh air if the Chief Executive considers there is a risk of a spread of Covid-19 and has consulted the Director General. This is inhumane and provides no provisions for alternative solutions to abate any risk. It is also detrimental to the physical and mental health of any person subjected to these inhumane conditions.
  5. There is no definition of what constitutes “consultation”. There is no limit on the time period the Chief Executive can prohibit fresh air. Even prisoners have the right to have one hour of suitable exercise in the open air subject to the weather[[20]](#footnote-20). This is not about the health of those in MIQ but rather about overreaching control.
  6. Under Article 7 of the International Covenant on Civil and Political Rights, it is a breach to subject a person to inhumane treatment or punishment. This Article cannot be derogated from (Article 4).
  7. There are no independent checks and balances on the powers of the Chief Executive. The complaints process is internal, with the processes being publicly available on the internet. There appears to be no independent review available.
  8. The measures fail to acknowledge the high compliance from the general public and other models such as the voluntary rules applied in Sweden[[21]](#footnote-21).

***Conclusion in respect of proposed changes:***

* 1. The Bill measures move well past the minimum necessary to achieve public health aims and into the realm of totalitarianism. Many of the current and proposed measures are not proportionate, reasonable or necessary. They are not motivated by public health. Rather a political agenda that fails to have the interests of New Zealanders at its core.
  2. The Government has illustrated a propensity to impose mandates for political and punitive reasons. It is particularly egregious to continue to allow the Government unfettered powers under the extension of this Bill with results more akin to a police state than a democracy.

1. **Accountability**
   1. Lack of accountability enabled by the proposed Bill has resulted in absurd Orwellian psychology thriving and the introduction of purely political doublespeak measures.
   2. The Government spent a year telling New Zealanders that masks do not work and that they were not required to wear them. The Government is now telling the public to wear masks and to do absurd things: like entering a gym with a mask on but taking it off again to exercise. Or, wearing a mask to enter a café, but removing it to eat at the same café.
   3. There is no mechanism under this legislation to hold the Government to account and insist that it provides scientific data to justify the U-turn on the effectiveness of masks.[[22]](#footnote-22)
   4. The Government can make orders without providing to the public the evidence on which it relies (suggesting that the Government does not rely on any evidence) and is not obliged to publicly provide any risk analysis to justify the proportionality of the measures it mandates.
2. **Hindsight And Up-To-Date Data 18 Months On And Solutions**
   1. There is no justification whatsoever for either the original powers to be extended or additional powers added. Since the early days of the emergency measures in 2020 there has been a plethora of data which should have been incorporated into any measures used, especially when these measures take away fundamental freedoms (see **Schedule A**).
   2. The New Zealand lockdown strategy was based on the flawed modelling of Professor Neil Ferguson of the Sage committee in the United Kingdom (who was later removed for breaching lockdown rules but was then quietly reinstated).[[23]](#footnote-23)
   3. Yet the Government persists with lockdowns that even the World Health Organisation advises that *"forced isolation and quarantine are ineffective and impractical"[[24]](#footnote-24)* in slowing the spread*.* Further, lockdowns cause greater damage than what they seek to the harm they seek to avert.

*"‘The negative consequences of a large-scale quarantine are so extreme… that this mitigation measure should be eliminated from serious consideration".[[25]](#footnote-25)*

* 1. Lockdowns are not working in New Zealand.[[26]](#footnote-26) [[27]](#footnote-27)
  2. Other countries such as Sweden have in the main not had draconian measures such as hard lockdowns or mandated mask wearing and yet continue to have consistently low death rates. Sweden has trusted its citizens to take personal responsibility and has adopted logical science backed measures. Florida, USA has taken a similar approach. Norway and Denmark have recently lifted all restrictions and are “living with the virus”.
  3. Covid Plan B[[28]](#footnote-28) and the Barrington Declaration[[29]](#footnote-29) all have pathways out which manage the risks without the requirement draconian laws or the removal of fundamental freedoms. Further alternatives are set out at **Schedule B**. It is important to note that the Covid Plan B plan explains that asymptomatic people do not spread Covid. Without asymptomatic transmission there is no justification for lockdowns, masks or the Covid Act.
  4. The Government's powers to lockdown indefinitely equates to omnipotent power to decide who will live. Deaths through suicide, cancer, and other serious illness are not considered. Only those who die with or from Covid must be saved at all costs. This is short-sighted and totally unacceptable.
  5. There is a conspicuous absence of any educational drive from the Government to look at any other solutions. For example, there is no encouragement for those at risk of the virus to take responsibility for their health, lose weight, eat healthily, exercise and ensure they get sufficient vitamin D, C and zinc. Instead, the measures imposed have added to these health concerns by keeping people inside and sedentary and stressed. All efforts have focused on an experimental medical intervention and punitive lockdowns.
  6. And all this for a virus with a less than 1% mortality rate even in the vulnerable.[[30]](#footnote-30)As discussed above, the measures adopted do not work and cause immeasurable damage, socially and economically.
  7. The Government has not sought to expand medical capacity to deal with increased hospital admissions (if any) that it continues to expound will be the result of unmitigated spread.
  8. Nor has the Government looked at therapeutics and the successes in other countries with tried and tested drugs as early intervention measures and to reduce hospital admissions.[[31]](#footnote-31)
  9. The up-to-date health information requires a fresh approach and an open discussion of the path out of this ‘crisis’ with the full spectrum of scientists from across the world. Any measures need to be proportionate, taking account of the risks. The Government must be open and transparent with robust debate and accountability through checks and balances.
  10. Science turns into religion the moment you cannot question it. Censorship around professionally qualified doctors and scientists is not the logical way to find the best solutions in the population’s best interests. To censor is to illustrate that the policies are not about public health but political control. Throughout this “crisis”, it has been evident that the Government’s narrow group of “experts” have made major errors in their advice, seemingly without repercussion or reprimand.[[32]](#footnote-32)
  11. Perhaps if all ‘experts’ and public servants lost their freedoms and livelihoods like the many New Zealanders who have lost theirs during the lockdowns, common sense would prevail.
  12. The Government appears to have forgotten that its only role is to represent the public interests and the people of New Zealand. The amendments proposed in the Bill and indeed the entire Act are arbitrary, punitive and confusing. New Zealand already has a coherent and more principled regime for managing infection disease in Part 3 and 3A of the Health Act 1956 as amended in 2016. The Bill should be scrapped, and the entire Act should be repealed.

**Voices for Freedom**

**Schedule A – Examples of what is wrong with the Act**

The Act already grants wide-ranging powers to the government and the Bill seeks to extend those.

In practice, what is already being done under the Act and Orders is fundamentally flawed, is not based on actual science, or preventing Covid 19.

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| --- | --- |
| **Covid 19** | The Act fails to define Covid-19, despite the fact the word appears in the title. This allows the government not to have a clear definition of what the Act or consequential orders are seeking to combat.  By intentionally failing to define the reason, the government can cloud the purpose. |
| **Masks** | Face coverings are ordered to be worn by those over 12.  The requirement to wear face coverings to protect you or others from Covid-19 has no scientific basis:   1. In the words of the Prime Minister and Director-General of Health, masks do not work <https://www.bitchute.com/video/ojGNGHFc0CAt/> 2. Typical mask-wearing does not reduce SARS-CoV-2 infection rates (COVID-19): [Effectiveness of Adding a Mask Recommendation to Other Public Health Measures to Prevent SARS-CoV-2 Infection in Danish Mask Wearers: A Randomized Controlled Trial: Annals of Internal Medicine: Vol 174, No 3 (acpjournals.org)](https://www.acpjournals.org/doi/10.7326/M20-6817) 3. SARS-CoV-2 viral particles are tiny and can easily pass through mask fibres: <https://pubmed.ncbi.nlm.nih.gov/16490606/>   <https://onlinelibrary.wiley.com/doi/epdf/10.1111/jebm.12381>   1. Up to 98% of viral particles may pass through cloth masks! <https://academic.oup.com/annweh/article/54/7/789/202744>   [Evaluating the efficacy of cloth facemasks in reducing particulate matter exposure - PubMed (nih.gov)](https://pubmed.ncbi.nlm.nih.gov/27531371/) |
| **Lockdowns** | People are being detained in their homes under the lockdown mandates, where:   1. There’s no evidence that lockdowns work to reduce overall mortality in a population. <https://www.waikato.ac.nz/news-opinion/media/2021/opinion-safety-at-all-costs-costs-lives?fbclid=IwAR2gnnKOJ099knNhHtqTXtAmMRTUK2zTdEm2BUxhHx35HINj9igvi13mPm8>, Page 13: <https://www.hartgroup.org/wp-content/uploads/2021/03/210322-Updated-HARTreview.pdf> 2. Via COVID Plan B, “The most comprehensive report yet, comparing google movement data to Covid19 cases, has found that lockdown (“stay at home”) had no role in the Covid19 death rate. The scientific report published in Nature says:   *“In ~ 98% of the comparisons using 87 different regions of the world we found no evidence that the number of deaths/million is reduced by staying at home. Regional differences in treatment methods and the natural course of the virus may also be major factors in this pandemic…”*  [https://www.covidplanb.co.nz/uncategorized/study-in-nature-blows-lockdowns-out-ofthe-water/?fbclid=IwAR3VGut10Alz6GW3qdyFAX0QBbcRSTXFEQaW7PIl3oX3W0Yb59BRMYGmZ0 https://www.nature.com/articles/s41598-021-84092-1](https://www.covidplanb.co.nz/uncategorized/study-in-nature-blows-lockdowns-out-ofthe-water/?fbclid=IwAR3VGut10Alz6GW3qdyFAX0QBbcRSTXFEQaW7PIl3oX3W0Yb59BRMYGmZ0%20https://www.nature.com/articles/s41598-021-84092-1)   1. The lockdowns are purportedly in place to reduce the spread of Covid 19. |
| **PCR testing** | The government has specified an inappropriate test (PCR) for detecting Covid 19 to the exclusion of usual methods of diagnosing (including assessment of symptoms).   1. PCR test is not a proper diagnostic tool for Covid-19, as confirmed by the World Health Organisation <https://voicesforfreedom.co.nz/who-pulls-a-swifty> 2. The PCR tests have very poor diagnostic properties <https://www.cochranelibrary.com/cdsr/doi/10.1002/14651858.CD013665/full?highlightAbstract=covid%25257Cdi%252520%252520%252520%252520%252520%252520%252520%252520%252520%252520%252520%252520%252520%252520%252520%252520%252520%252520%252520%252520%252520%252520%252520%252520%252520%252520%252520%252520%252520%252520%252520%252520%252520%252520%252520%252520%252520%252520agnos%25257C19%25257Cdiagnosis%25257Cdiagnosi%25257Cdiagnoses> 3. The PCR protocols have only been developed with regard to analytical specificity, that is how specifically they amplify a target sequence in the laboratory <https://www.eurosurveillance.org/content/10.2807/1560-7917.ES.2020.25.3.2000045> 4. The PCR tests are meaningless with regard to clinical use as they have no established diagnostic specificity <https://www.gene-quantification.de/miqe-bustin-et-al-clin-chem-2009.pdf> |
| **Vaccination** | The government is only promoting the novel Pfizer mRNA vaccine as the acceptable medical treatment for responding to Covid-19, despite it:   1. being a novel mRNA vaccine presently undergoing trial phases, which are not due to complete until 2023 . <https://www.pfizer.com/science/coronavirus/vaccine/about-our-landmark-trial> 2. only having provisional consent for use in New Zealand. <https://www.health.govt.nz/our-work/diseases-and-conditions/covid-19-novel-coronavirus/covid-19-vaccines/covid-19-assessing-and-approving-vaccines> 3. not having sterilising immunity and therefore not always able to prevent infection or transmission. There is relevant evidence from countries have high Covid-19 (tested) rates as well as high vaccination rates. See Israel for example. <https://www.medrxiv.org/content/10.1101/2021.08.24.21262415v1> and the US <https://www.cdc.gov/vaccines/covid-19/health-departments/breakthrough-cases.html>, https://dailysceptic.org/2021/10/06/new-lancet-study-confirms-plummeting-vaccine-effectiveness/ 4. New Zealand’s own Medsafe shows that adverse events are occurring. And as stated by them less than 5% of adverse events are reported. With over 20,000 adverse events reported to New Zealand's Medsafe the true number of events will be much higher than this. <https://www.medsafe.govt.nz/COVID-19/vaccine-report-overview.asp>   The Prime Minster cannot and should not ignore what the public are telling her. On her own Facebook post of 23 September 2021 on 'side effects' there were over 34,000 comments (it is not clear if that number includes those that were deleted) with over 4700 shares. The public’s message that serious adverse events are occurring is overwhelming. <https://www.facebook.com/jacindaardern/posts/10158140116102441>. |

**Schedule B – Alternatives**

The alternatives include:

1. Shelter the vulnerable.
2. Facilitate lifestyle where people have their full freedoms including being able to work, see family and friends and take responsibility for their own health and wellbeing.
3. Make available a wide range of prophylactics and therapeutics including those that are being used in the current situation internationally prescription medication, supplements, herbs and other. And including specifically ivermectin, hydroxychloroquine, zinc etc.
4. Allow doctors to practice as they see fit utilising their skills and education.
5. Ensure that the public is provided with information which allows them to make a proper informed choice and provide for fully informed consent.

Here are three examples of protocol strategies that could form the basis of strategy for reopening New Zealand:

1. <https://www.covidplanb.co.nz/our-posts/protocol-for-re-opening-new-zealand-society/>
2. <https://www.pandata.org/about/protocol-for-reopening-society/>
3. <https://gbdeclaration.org/>

1. <https://www.justice.govt.nz/assets/Documents/Publications/20210914-NZ-BORA-Advice-COVID-19-Public-Health-Response-Amendment-Bill.pdf> [↑](#footnote-ref-1)
2. <https://www.health.govt.nz/system/files/documents/information-release/ris_legislative_improvements_to_support_the_public_health_response_to_covid-19.pdf> [↑](#footnote-ref-2)
3. [Ibid at 2.5](https://www.health.govt.nz/system/files/documents/information-release/ris_legislative_improvements_to_support_the_public_health_response_to_covid-19.pdf) What are the objectives sought in relation to the identified problem? “Amend the Act to increase the maximum infringement fee to $1,000 for an individual (currently $300), and to increase the court-imposed infringement fine to a maximum of $3,000 for an individual (currently $1,000). To ensure sure the infringement penalties are proportionate both to the risk posed by non-compliance and the resources available to an individual versus a body corporate to meet infringement penalties, a new fee of $3,000 and a court-imposed infringement fine of up to $9,000 is proposed for body corporates.” [↑](#footnote-ref-3)
4. <https://www.justice.govt.nz/assets/Documents/Publications/COVID-19-Public-Health-Response-Bill.pdf> [↑](#footnote-ref-4)
5. <https://ondemand.parliament.nz/parliament-tv-on-demand/?itemId=221021> [↑](#footnote-ref-5)
6. h<ttp://ldac.org.nz/assets/documents/Legislation-Guidelines-2018-edition-2020-06-25.pdf> [↑](#footnote-ref-6)
7. <http://www.ldac.org.nz/assets/documents/Legislation-Guidelines-2018-edition-2020-06-25.pdf> - see chapter 6 New Zealand Bill Of Rights Act. [↑](#footnote-ref-7)
8. <https://www.bmj.com/content/371/bmj.m3883/rr> [↑](#footnote-ref-8)
9. <https://apps.who.int/iris/bitstream/handle/10665/340124/PMC7947934.pdf?sequence=1&isAllowed=y> [↑](#footnote-ref-9)
10. See Professor John Gibson <https://www.youtube.com/watch?v=O2JOg4ki_so> and <https://www.bassettbrashandhide.com/post/john-gibson-lockdowns-again> and Dr Martin Lally of Capital Financial Consultants has written a paper on the costs and benefits of a Covid-19 lockdown at <https://www.kiwiblog.co.nz/wp-content/uploads/2020/09/THE-COSTS-AND-BENEFITS-OF-A-COVID-LOCKDOWN-2.pdf> [↑](#footnote-ref-10)
11. <https://www.covidplanb.co.nz/our-posts/protocol-for-re-opening-new-zealand-society/> [↑](#footnote-ref-11)
12. *CIV-2021-485- 509 K, B, L& L v Minister of Covid-19* response which alleges that the Covid-19 Public Health Response (Vaccinations) Order is unlawful and irrational because it unlawfully delegates a statutory duty to employers under Clause 8. [↑](#footnote-ref-12)
13. Under proposed section 6 an “Enforcement officer” means any person whom the Commissioner recognises as being—(i) a Māori warden; or (ii) a nominated representative of an iwi organisation; or (iii) a Pasifika warden; or (iv) a community patroller. [↑](#footnote-ref-13)
14. <http://www.ldac.org.nz/assets/documents/Legislation-Guidelines-2018-edition-2020-06-25.pdf> - see chapter 4 Constitutional Issues and Recognising Rights [↑](#footnote-ref-14)
15. <https://adls.org.nz/Story?Action=View&Story_id=423> [↑](#footnote-ref-15)
16. <https://www.health.govt.nz/system/files/documents/information-release/ris_legislative_improvements_to_support_the_public_health_response_to_covid-19.pdf> [↑](#footnote-ref-16)
17. [Ibid at 2.5](https://www.health.govt.nz/system/files/documents/information-release/ris_legislative_improvements_to_support_the_public_health_response_to_covid-19.pdf) What are the objectives sought in relation to the identified problem? “Amend the Act to increase the maximum infringement fee to $1,000 for an individual (currently $300), and to increase the court-imposed infringement fine to a maximum of $3,000 for an individual (currently $1,000). To ensure sure the infringement penalties are proportionate both to the risk posed by non-compliance and the resources available to an individual versus a body corporate to meet infringement penalties, a new fee of $3,000 and a court-imposed infringement fine of up to $9,000 is proposed for body corporates.” [↑](#footnote-ref-17)
18. Legislation Guidelines (18th edition) at Chapter 25 (<http://www.ldac.org.nz/assets/documents/Legislation-Guidelines-2018-edition-2020-06-25.pdf>) [↑](#footnote-ref-18)
19. <https://www.justice.govt.nz/assets/Documents/Publications/20210914-NZ-BORA-Advice-COVID-19-Public-Health-Response-Amendment-Bill.pdf> [↑](#footnote-ref-19)
20. <https://www.ohchr.org/EN/ProfessionalInterest/Pages/TreatmentOfPrisoners.aspx> [↑](#footnote-ref-20)
21. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7337695/> [↑](#footnote-ref-21)
22. <https://www.bitchute.com/video/esrZxGpTwU3s/> [↑](#footnote-ref-22)
23. <https://www.tandfonline.com/doi/full/10.1080/00779954.2020.1844786> [↑](#footnote-ref-23)
24. World Health Organization Writing Group. Nonpharmaceutical public health interventions for pandemic influenza, national and community measures. Emerg Infect Dis 2006;12:88–94. [↑](#footnote-ref-24)
25. <https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.552.1109&rep=rep1&type=pdf> [↑](#footnote-ref-25)
26. See Professor John Gibson <https://www.youtube.com/watch?v=O2JOg4ki_so> and <https://www.bassettbrashandhide.com/post/john-gibson-lockdowns-again> and Dr Martin Lally of Capital Financial Consultants has written a paper on the costs and benefits of a Covid-19 lockdown at <https://www.kiwiblog.co.nz/wp-content/uploads/2020/09/THE-COSTS-AND-BENEFITS-OF-A-COVID-LOCKDOWN-2.pdf> [↑](#footnote-ref-26)
27. <https://www.covidplanb.co.nz/our-posts/zero-covid-is-not-a-necessary-or-sustainable-solution-for-new-zealand/> [↑](#footnote-ref-27)
28. <https://www.covidplanb.co.nz/our-posts/protocol-for-re-opening-new-zealand-society/> [↑](#footnote-ref-28)
29. <https://gbdeclaration.org/> [↑](#footnote-ref-29)
30. <https://onlinelibrary.wiley.com/doi/epdf/10.1111/eci.13554> [↑](#footnote-ref-30)
31. Front Line Covid-19 Critical Care Alliance: <https://covid19criticalcare.com/> and Bird Group: <https://bird-group.org/> [↑](#footnote-ref-31)
32. <https://www.covidplanb.co.nz/our-posts/dissection-of-prof-hendy-model-presented-at-ardern-conference-23-9-21/> [↑](#footnote-ref-32)