



District Court Practice Note

Issued by the Chief District Court Judge on 1 March 2021

Appeals by a business or undertaking against order under s 11 of the COVID-19 Public Response Act 2020 to close or cease operations.

Section 11 of the COVID-19 Public Health Response Act 2020 (“the Act”) permits the Minister of Health and the Director-General of Health to make orders to prevent the risk of the outbreak or spread of COVID-19.

Section 24(1) of the Act gives an enforcement officer, who has reasonable grounds to believe that a business or undertaking is operating in contravention of a section 11 order or contrary to any conditions imposed on its operation by a s 11 order, power to direct any person who appears to be in charge of the business or undertaking, or that part, to close and cease operation until a later time stated in the direction that does not exceed 24 hours after it is given.

Section 24(2) of the Act allows the owner or manager of the business or undertaking the right to appeal to the District Court. Under s 24(3) of the Act the District Court may revoke the direction either unconditionally or subject to conditions it thinks fit to impose or may refuse to revoke the direction.

This practice note applies and has effect unless otherwise revoked, until the date any further practice note comes into effect, in relation to all appeals under s 24(2) of the Act.

Procedure for lodging and hearing the appeal

The provisions of the District Court Protocol – COVID-19 Alert Level 3 – 12 August 2020 (link below) shall apply to the appeal except to the extent that the following provisions modify the Practice Note and the District Court Rules 2016.

<https://www.districtcourts.govt.nz/covid-19-information/district-court-protocol-covid-19-alert-level-3-12-august-2020/>

Section 24 of the Epidemic Preparedness Act 2006 permits a District Court Judge, while an epidemic notice is in force, to modify any rule of court to the extent necessary in the interests of justice to take account of the effects of the quarantinable disease stated in the notice.

An epidemic notice is in effect in respect of COVID-19. This notice came into force on 24 March 2020 and has been subsequently renewed. This notice expires on 22 March 2021, unless extended.

Filing of the appeal

The appeal must be in writing. No particular form is required. The appeal must specify the direction appealed against; the grounds on which the appeal is brought; and any matters on which the business or undertaking relies in support of the appeal.

The appeal, together with a copy of the direction from an enforcement officer to close and cease operations, must be transmitted electronically, to the email address shown below, together with any documents on which the business or undertaking relies. The email address will be monitored 24 hours a day, seven days a week: businessclosureappeals@justice.govt.nz

No fee is payable for the filing or hearing of an appeal under these provisions.

Service of the appeal

The manager or owner of the business or undertaking must, at the time of lodging the appeal, immediately serve a copy of the appeal together with any supporting documents on the enforcement officer who issued the direction to close or cease operations. The appeal must be served by transmitting the appeal and any documents on which the business or undertaking relies electronically to the enforcement officer's email address, with proof of receipt.

Reply by enforcement officer to the appeal

Forthwith upon receipt of the appeal, the enforcement officer must file electronically in the District Court (to the above email address) and serve upon the manager or owner (at his or her email address) the following:

- evidence as to the authority of the enforcement officer;
- any directions given to the owner or manager under s 21 of the Act;
- the particulars of the s 11 order;
- particulars of the grounds on which the enforcement officer believes the business or undertaking is operating in contravention of the s 11 order; and
- any documents on which the enforcement officer relies.

Hearing the appeal

The registry officer that receives the appeal will, forthwith upon receipt of the appeal, contact the Appeal Duty District Court Judge by telephone and send the appeal and any other documents he or she receives to the Judge electronically.

The Appeal Duty District Court Judge will direct the time and manner of hearing the appeal.

The registry officer shall notify the business or undertaking and the enforcement officer of the time/date and manner of the hearing of the appeal.

The Appeal Duty District Court Judge will direct the method of attendance at, and participation in the hearing of the appeal (for example, by telephone or by audio-visual link).

Judge Heemi Taumaunu Chief District Court Judge

1 March 2021