

Health Report

COVID-19 Public Health Response (Air Border, Isolation and Quarantine and Required Testing) Amendment Order 2020

Date due to MO: 30 September 2020 **Action required by:** 1 October 2020

Security level: COMMERCIAL IN CONFIDENCE **Health Report number:** 20201794

To: Hon Chris Hipkins, Minister of Health

Copy to: Hon Dr Megan Woods, Minister of Housing
Hon Phil Twyford, Minister of Transport
Hon Grant Robertson, Minister of Finance

Contact for telephone discussion

Name	Position	Telephone
Robyn Shearer	Acting Director-General of Health	s 9(2)(a)
Maree Roberts	Deputy Director-General System Strategy and Policy	s 9(2)(a)

Action for Private Secretaries

Forward a copy of the report to the Minister of Housing, Minister of Transport and Minister of Finance.

Date dispatched to MO:

Return the signed report to the Ministry of Health.

COVID-19 Public Health Response (Air Border, Isolation and Quarantine and Required Testing) Amendment Order 2020

Purpose of report

This report recommends that sign the attached COVID-19 Public Health Response (Air Border, Isolation and Quarantine and Required Testing) Amendment Order 2020.

Key points

- Overseas and New Zealand-based air crew are currently not subject to any mandatory isolation or testing requirements. However, New Zealand-based air crew travelling internationally are voluntarily undertaking a number of measures to mitigate the risk of importing COVID-19 cases into New Zealand.
- On 15 September you agreed to adopt a mandatory regime for the regulation of air crew entering New Zealand from overseas [HR 2020163 refers].
- The attached Order – COVID-19 Public Health Response (Air Border, Isolation and Quarantine and Required Testing) Amendment Order 2020 (the Amendment Order) would give effect to that policy including:
 - all overseas-based air crew, other than those who remain airside, would be required to spend the duration of their layover in New Zealand in a managed isolation facility, including using secure designated transport, and
 - all New Zealand-based crew who fly on higher risk routes would be required to self-isolate for at least 48 hours on their return to New Zealand and until they receive a negative COVID-19 test.
- In HR 20201633 you indicated that you wished for the requirements on New Zealand-based air crew to use PPE in-flight and to follow strict requirements for transport and accommodation during layovers to be made mandatory, to the extent possible.
- The Amendment Order has been drafted to require for New Zealand-based air crew to comply with these requirements while on layover overseas, otherwise they may be required to enter managed isolation for up to 14 days. However, it is important to note that the Ministry has no mechanism to monitor compliance with these restrictions and will largely rely on crew's voluntary compliance.
- Air New Zealand has raised concerns about the requirement for crew to self-isolate while on their overseas layovers and have asked for crew to be able to interact with other crew from the same flight under tightly controlled circumstances. The requirement for crew self-isolation is reported to have a detrimental effect on crew well-being.
- Officials consider that from a public health perspective there is minimal increase in the risk posed by crew interacting in tightly controlled circumstances where:
 - crew would only be allowed to interact with other crew on the same flight

- no crew member would be allowed to interact with others if unwell
 - crew may only meet in one crew member's room, not the hotel restaurant or any other location, and
 - crew must observe all other public health precautions such as wearing a mask at all times when outside their room (including when in another crew member's room), observing good hand hygiene and practicing physical distancing.
- The Amendment Order requires air crew who are self-isolating in New Zealand to provide information about their place of isolation and a contact phone number to the Ministry of Health. The Ministry is currently developing a plan to monitor compliance with the self-isolation requirements.
- If the Amendment Order is signed on 1 October, the requirement in relation to overseas-based air crew and New Zealand-based air crew would come into effect on 3 October.
- You also directed the Ministry to work with Ministry of Transport and Air New Zealand to develop a surveillance testing regime for lower risk New Zealand-based air crew.
- The proposed regime would involve weekly testing of:
 - all cabin crew who travel internationally, and
 - other air crew such as pilots or cargo crew who travel internationally only if the crew have an overnight layover.
- Crew on domestic routes would not be subject to surveillance testing unless they have worked on a flight transferring international passengers who have not yet undertaken managed isolation. In these circumstances the domestic crew would be required to undertake a COVID-19 test within 3 – 7 days after the affected flight. Air crew are permitted to work while they are awaiting their test result.
- Air New Zealand currently runs its' own testing facilities and have expressed a preference to continue to deliver testing to its staff. This will allow testing to be aligned with crew's work schedules and for tracking of crew data. Officials support this proposal.
- Air New Zealand has requested that the surveillance testing regime be delayed until 19 October 2020 in order to allow for implementation.
- Currently Air New Zealand has a testing centre in place in Auckland but has limited capacity in other centres where crew may be required to be tested. Work is ongoing to set up a testing station in Christchurch.
- Officials support this proposal, noting that the majority of crew would be tested before this date, however, this additional time would be required to ensure all crew who are required to be tested are receiving appropriate testing.
- In December 2020, the Ministry plans to review the regulation of New Zealand-based air crew, and will report back to you on any significant findings.

Recommendations

The Ministry recommends that you:

- a) **Note** that on 15 September you agreed to introduce strengthened requirements for the regulation of overseas and New Zealand-based air crew travelling internationally. ☒ Yes ☐ No
- b) **Agree** that New Zealand-based air crew should be allowed to interact with other crew travelling on their flight, during layover, if strict public health measures are maintained. ☒ Yes ☐ No
- c) **Note** that you directed the Ministry to develop a surveillance testing regime for lower risk New Zealand-based air crew. ☒ Yes ☐ No
- d) **Agree** to the outlined surveillance testing regime which would require weekly testing of: ☒ Yes ☐ No
- all cabin crew travelling on international flights, and
 - all other air crew (e.g. pilots and cargo crew) who travel internationally and have overnight overseas layovers and
- e) **Agree** to the outlined surveillance testing regime which would require one off testing of: ☒ Yes ☐ No
- domestic cabin crew who have worked on a flight transferring international arrivals to a managed isolation facility.
- f) **Note** the attached Amendment Order gives effect to the regime as previously agreed in HR20201633 and the policy issues outlined above for your agreement. ☒ Yes ☐ No
- g) **Note** the Ministry is considering options for monitoring compliance with self-isolation requirements for New Zealand-based air crew. ☒ Yes ☐ No
- h) **Note** the Ministry will review the regime for regulation of New Zealand-based air crew in December 2020 and will report back on any significant findings. ☒ Yes ☐ No
- i) **Agree** that the requirement for surveillance testing of lower risk air crew will come into force on 19 October 2020. ☒ Yes ☐ No
- j) **Agree** to sign the attached COVID-19 Public Health Response (Air Border, Isolation and Quarantine and Required Testing) Amendment Order 2020. ☒ Yes ☐ No



Robyn Shearer
Acting Director-General of Health
Date:



Hon Chris Hipkins
Minister of Health
Date: 2/10/20

COVID-19 Public Health Response (Air Border, Isolation and Quarantine and Required Testing) Amendment Order 2020

Background

1. Air crew are currently not subject to any mandatory isolation or testing requirements:
 - a. under the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 (Air Border Order) air crew are exempt from the requirement to enter managed isolation for 14 days, and
 - b. under the COVID-19 Public Health Response (Required Testing) Order 2020 (Required Testing Order), air crew are not affected persons who are required to undergo surveillance testing.
2. New Zealand-based air crew are currently voluntarily undertaking a number of measures to mitigate the risk of importing cases of COVID-19 into the community. These measures include:
 - a. the use of PPE by air crew on all international flights
 - b. the use of travel corridors within airports, and transport and accommodation controls (including self-isolation in hotel rooms) during layovers
 - c. undergoing health assessments on arrival in New Zealand, and
 - d. 48 hours self-isolation and COVID-19 testing for those returning from 'higher' risk layovers (including self-isolation until a negative test result has been returned).
3. On 15 September 2020, you agreed to adopt a mandatory regime for the regulation of air crew entering New Zealand from overseas [HR 2020163 refers].
4. The COVID-19 Public Health Response (Air Border, Isolation and Quarantine and Required Testing) Amendment Order 2020 (the Amendment Order) as drafted would give effect to that policy including:
 - a. all overseas-based air crew, other than those who remain airside, will be required to spend the duration of their layover (up to 14 days) in New Zealand in a managed isolation facility (MIQF), including secure transport to and from the MIQF
 - b. all New Zealand-based air crew who fly on 'higher risk' routes will be required to self-isolate for at least 48 hours after their return to New Zealand and until they are assessed as being at a low risk of having or transmitting COVID-19 (including receiving a negative COVID-19 test)
 - c. all New Zealand-based air crew will be required to use PPE in-flight and follow strict requirements for transport and accommodation during layovers, and
 - d. all low and medium risk New Zealand-based air crew will be subject to regular, mandatory surveillance testing. The details of the surveillance testing regime are set out in this report.

Contents of the Amended Order

Overseas-based air crew

5. Under the Amendment Order as drafted, overseas-based air crew are:

- a. no longer exempt from the requirement to enter managed isolation while in New Zealand. However, overseas-based air crew are exempt if they remain airside at either the international airport they arrive at and any other airport through which they transit
- b. required to wear appropriate PPE while in the airport and on transport to a MIQF and undergo medical examination on arrival to New Zealand, and
- c. permitted to leave isolation or quarantine before the 14-day period has elapsed if they are leaving New Zealand as part of their duties as an air crew member.

New Zealand-based air crew

Requirements for higher-risk crew

6. Under the Amendment Order, all New Zealand-based air crew who have travelled on a 'higher risk' route are required to:
 - a. isolate at their home or place of residence for at least 48 hours upon arrival in New Zealand, and
 - b. receive a negative COVID-19 test before they leave self-isolation.
7. Higher risk routes are designated by the Director-General of Health. Note that higher risk routes currently only include flights to Los Angeles and San Francisco. The Director-General will designate higher risk routes once the Amendment Order is in force and these routes will be subject to regular review.
8. All New Zealand-based air crew are required to be transferred to a MIQF (rather than isolate at home or not be subject to any isolation requirements) if information is provided that indicates that the air crew have not undertaken the following measures while they were overseas or in flight:
 - a. use of PPE on all flights
 - b. physical distancing from other people in the airport where practicable
 - c. use of transport to and from their accommodation which is as direct as possible and minimises contact with other persons from the overseas jurisdiction, and
 - d. undertaking "self-isolation" while in the accommodation in the overseas jurisdiction (i.e. they stay in their room and maintain physical distance from other persons).

Crew interactions while self-isolating on layovers

9. Under current Ministry of Health guidelines crew are not permitted to interact with each other while on layovers, including interacting with other crew who have worked together in-flight en route to the layover.
10. The decision to preclude crew interactions was an active one made during the first COVID-19 wave in the context of higher community transmission in New Zealand and a number of confirmed cases amongst air crew.
11. Air New Zealand has raised concerns that this requirement is causing significant detriment to crew well-being and does not appear to be justified given the success of other measures in place. It is envisaged that increased requirements on air crew are

likely to be in force for the next 12 to 24 months. Given this, it is not sustainable to continue to expect air crew to observe strict self-isolation given the impacts on crew's overall well-being.

12. The requirement for crew to self-isolate while on their overseas layovers is largely unenforceable, as the Ministry has no way of monitoring compliance with this obligation. Given this, it is important to ensure a high level of crew buy-in to the measures which is more likely if crew are allowed to interact. Officials consider a regime of regulated crew interaction is more likely to be able to be sustained long-term.
13. Officials recommend that while on overseas layovers crew are allowed to interact with a limited number of other crew under strict requirements where:
 - a. crew are only allowed to interact with other crew on the same flight
 - b. no crew member may interact with others if they are unwell
 - c. crew may only meet in one crew member's room, not in the hotel restaurant or any other location, and
 - d. crew must observe all other public health precautions such as wearing masks at all times when outside their room (including when interacting with other crew), observing good hand hygiene, and practicing physical distancing.
14. Officials consider that any increase in risk of crew contracting or spreading COVID-19 is likely to be minimal because:
 - a. there is unlikely to be a material increase in the risk of air crew contracting COVID-19 while overseas. Under the proposal crew would only be allowed to interact in small groups, in one person's room meaning they would not be exposed to other people outside of the air crew
 - b. the increased risk of crew moving around the hotel to access other rooms is small and can be mitigated by the use of face masks, hand hygiene and physical distancing, and
 - c. there is unlikely to be a material increase in the risk of transmission of COVID-19 between air crew on the same flight. Air crew interact closely during the flight and share facilities such as the rest area meaning that they are already likely to be a 'close contact' and this would not significantly increase the risk of transmission between crew.
15. Note that if it was discovered that air crew had not complied with these requirements, the Amendment Order would allow for the crew to be required to enter a MIQF for 14 days upon return to New Zealand.

Compliance with requirements

16. As outlined previously, there may be limited enforceability of some requirements the amended Order would place on New Zealand-based air crew (including requiring use of PPE in-flight).
17. The Ministry has worked alongside Air New Zealand to develop the current framework of measures and proposes the following measures are taken to ensure compliance:

- a. all crew self-isolating will be required to provide details of the address where they are self-isolating. The Ministry will work to establish a regime to monitor compliance which may include random spot-checks or calls from Healthline, and
- b. the Ministry and Air New Zealand will undertake a review of the measures in December 2020 and report back to you if any findings justify a review of the requirements in the Amendment Order.

Surveillance testing of other New Zealand-based air crew

18. In HR 20201633 you directed the Ministry to work with the Ministry of Transport and Air New Zealand to develop a surveillance testing regime for low and medium risk air crew. You have indicated that the regularity of this testing should be in line with other border workers with similar levels of risk to air crew.
19. The objectives of surveillance testing of air crew are to:
 - a. identify and isolate positive COVID-19 cases quickly, lessening the risk of COVID-19 spreading to the community
 - b. provide certainty to air crew, and
 - c. create a legal framework for enforcement of testing.
20. The proposed regime aligns with the COVID-19 Surveillance Plan and Testing Strategy as outlined in HR 20201513. In the wider border testing regime, testing of workers is required where workers:
 - a. have face-to-face contact in any setting within 2 metres of other people arriving at the New Zealand border for 15 minutes or more
 - b. have been in a closed environment with other people arriving at the New Zealand border for 15 minutes or more, and/or
 - c. are potentially exposed to respiratory secretions or fomites and are not wearing PPE.
21. The Ministry proposes that three groups of air crew are subject to testing as outlined below.

Group	Risk analysis	Testing frequency
All cabin crew who travel internationally	<p>Cabin crew are in close proximity to international travellers for a sustained period of time in a closed environment.</p> <p>In addition, some cabin crew may have an increased risk associated with an international layover.</p>	Weekly – note that crew may continue working while awaiting results.
Other air crew such as pilots or cargo crew, who travel	In the ordinary course crew (other than cabin crew) such as pilots and cargo crew do not	Weekly – note that crew may continue working while awaiting results.

internationally <u>and</u> have an overnight layover	<p>come into proximity with international travellers.</p> <p>However, where air crew have an overnight international layover this justifies surveillance testing. There is a risk that during layover air crew may be exposed to COVID-19 positive cases either on transport or in accommodation.</p>	
Other air crew such as pilots or cargo crew, who travel internationally and <u>do not</u> have an overnight layover	<p>In the ordinary course crew (other than cabin crew) such as pilots and cargo crew do not come into proximity with international travellers.</p> <p>Therefore, crew who do not have overnight international layovers do not need to be tested.</p>	Surveillance testing not recommended. If crew are unwell they should follow public health guidelines regarding getting testing.
Cabin crew on domestic flights transferring passengers to managed isolation facilities	In this situation, cabin crew are in close proximity to international travellers for a sustained period of time in a closed environment.	Required to submit to a test within 3 to 7 days after the affected flight. On-going testing would not be required unless MIQ transfer flights are undertaken regularly. Note that crew may continue working while they await surveillance testing results.
Cabin crew on other domestic flights	Cabin crew on all other domestic flights do not come into proximity with international travellers.	Surveillance testing not recommended. If crew are unwell they should follow public health guidelines regarding getting testing.

22. Air crew will not be required to be tested more than once in a seven-day period.
23. If New Zealand-based air crew have not worked a duty as described in the above table in the preceding seven days, they are not required to be tested until the next applicable duty.
24. Air New Zealand has indicated that some international crew are required to undertake pre-departure testing as a requirement for overseas jurisdictions (for example, to Hong Kong). Where possible, to minimise the number of tests taken, Air New Zealand will try to ensure that pre-departure tests are lined up with surveillance testing requirements.

Overseas-based medical attendants

25. The requirements for overseas-based medical attendants are subject to the same requirements as overseas-based air crew (i.e. they are required to enter a MIQF for the duration of their layover unless they remain airsides).

New Zealand-based medical attendants

26. All New Zealand-based medical attendants are subject to the same requirements as 'higher risk' air crew.

Process for amending a section 11 order

27. Under the COVID-19 Act, an Order may be made if either:
- a. a state of emergency has been declared (under the Civil Defence Emergency Management Act 2002)
 - b. an Epidemic Notice is in force (under the Epidemic Preparedness Act 2006), or
 - c. it has been authorised by the Prime Minister.
28. There is currently an Epidemic Notice in place, which allows Orders to be made under section 11 of the COVID-19 Act.
29. As the Minister of Health, you may make Orders under section 11 of the COVID-19 Act.
30. To make an Order under section 11 you must:
- a. have received advice from the Director-General about –
 - i. the risks of the outbreak or spread of COVID-19, and
 - ii. the nature and extent of measures that are appropriate to address those risks, and
 - b. be satisfied that the proposed Order does not limit or is a justified limit on the rights and freedoms in the New Zealand Bill of Rights Act 1990, and
 - c. consult with the Prime Minister, the Minister of Justice and any other Ministers you think necessary, and
 - d. be satisfied that this Order is appropriate to achieve the purpose of that Act.
31. I understand that you have consulted with the Prime Minister and the Minister of Justice on the draft Order.
32. My advice about the risks of the outbreak or spread of COVID-19 and the nature and extent of measures that are appropriate to address those risks is set out below.

Public health rationale for amendments

33. COVID-19 is a highly infectious disease which may be spread by people who are not showing symptoms. As air crew travel outside New Zealand, they are at a heightened risk of contracting COVID-19 either from passengers, or while overseas.
34. In some cases, air crew are spending time in countries with significant community spread of COVID-19 meaning that despite precautionary measures, they are at risk of contracting the virus. Although this risk is viewed to be low, this is reliant on strict

adherence to public health mitigations (such as the use of PPE and isolated transport and accommodation).

35. The risks of COVID-19 spreading to or from New Zealand-based air crew are currently being managed by a suite of voluntary public health measures. However, voluntary measures create a risk of non-compliance as New Zealand-based air crew on 'higher risk' layovers may refuse to be tested or to comply with isolation requirements.
36. For overseas-based air crew there is currently no requirement to enter managed isolation. This does not align with the treatment of all other arrivals in New Zealand who have been residing overseas, which presents an equal risk of importing cases of COVID-19 into New Zealand.
37. Setting the requirements for air crew out in an Order will also increase transparency and provide clear implications for non-compliance.
38. Requiring surveillance testing of all air crew will ensure consistency with the requirements currently in place for other border workers who present a higher risk of transmission from COVID-19 relative to the general population.
39. You have previously been provided with detailed public health rationale for the surveillance testing regime [HR20201513 refers].

New Zealand Bill of Rights Act 1990

40. A matter for you to consider each time an Order is proposed under the COVID-19 Public Health Response Act 2020 is whether the exercise of such powers will be appropriate. The power to make an Order in section 11 of the Act must be exercised consistently with the New Zealand Bill of Rights Act 1990 (NZBORA).
41. Section 9(1)(ba) of the COVID Act expressly requires you to be satisfied that the proposed Order does not limit or is a justified limit on the rights and freedoms in the NZBORA.
42. A number of rights may be engaged by the proposed amendments including:
 - a. the right to freedom of movement under section 18
 - b. the right to freedom of association under section 17
 - c. the right to refuse to undergo medical treatment under section 11
 - d. the right to be secure against unreasonable search or seizure under section 21, and
 - e. the right to be free from arbitrary detention under section 22.
43. We consider that insofar as the rights noted above are engaged and limited by the amendments, any limitations are justifiable in a free and democratic society as set out below.
44. You have previously been provided with more detailed advice about the potential NZBORA implications of these proposals [HR 20201633].

Managed isolation for overseas-based air crew

45. Isolation from the community for at least 14 days after travel overseas currently represents New Zealand's best defence against importing cases of COVID-19 from overseas. Due to the virulence and potential asymptomatic transmission of COVID-19

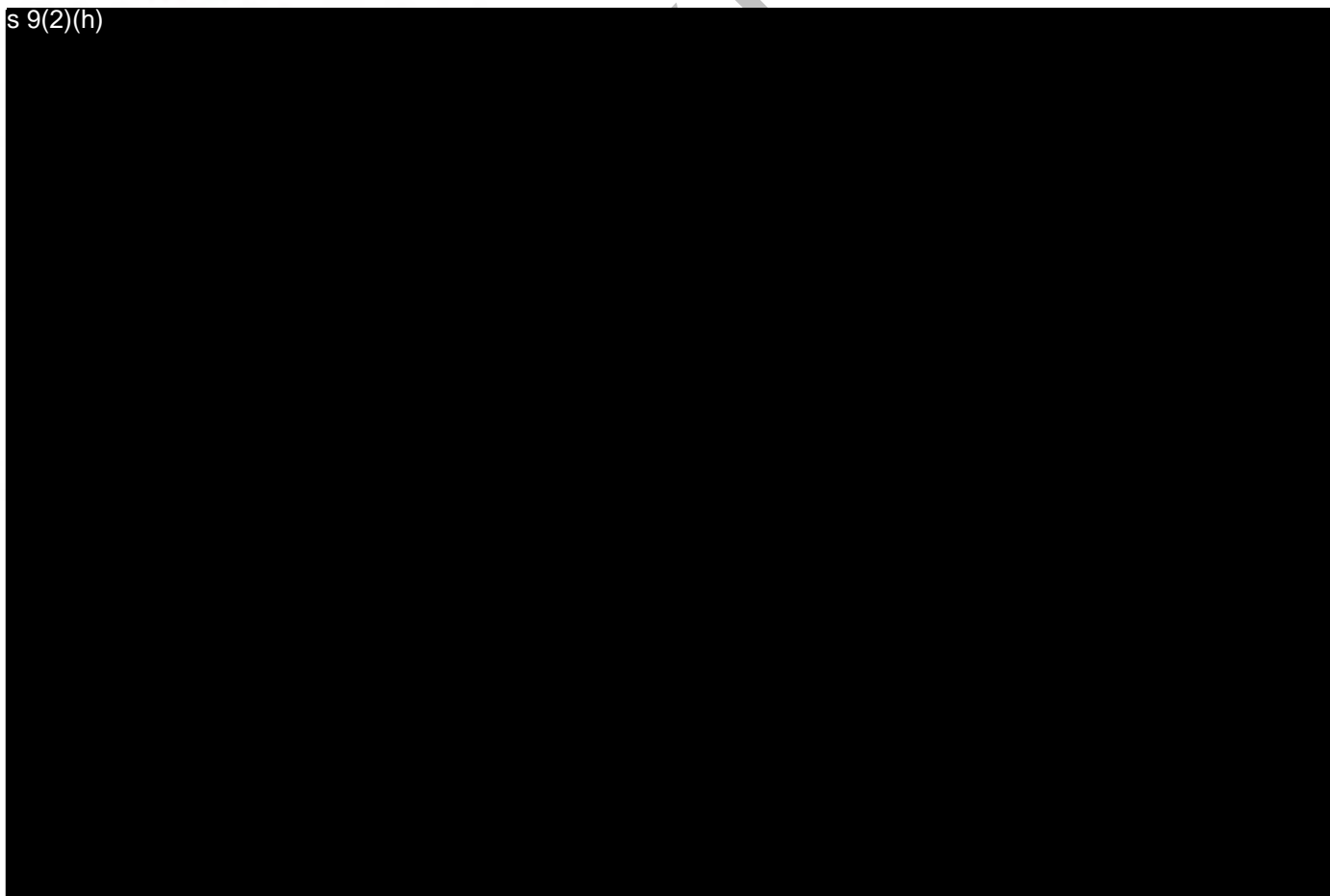
there is a strong case that mandatory isolation is necessary to avoid potential spread of the virus.

46. Overseas-based air crew present a real risk of importing cases of COVID-19 into the community, given that they reside in countries where they may have been exposed to community transmission of COVID-19.
47. Overseas-based air crew are permitted to leave managed isolation before 14 days has lapsed as they are returning to their home country and are not entering the New Zealand community. Practically, this means that in many cases the duration of managed isolation is significantly shorter than 14 days (meaning that the potential limitation on rights is minimised).

New Zealand-based air crew

48. The requirements for New Zealand-based air crew are risk-based and only crew deemed to be 'higher risk' are required to isolate.
49. Permitting air crew who have travelled on high risk routes to immediately re-enter the community may increase the risk of them transmitting COVID-19 to others.
50. Isolation at home is less restrictive of crew's rights than isolation in a managed facility. However, it is considered sufficient to mitigate the public health risk (rather than managed isolation) as air crew are only overseas for a limited period of time and public health mitigations such as use of PPE and secure transport and accommodation are undertaken.

s 9(2)(h)



Implementation

54. Officials have worked closely with the Ministry of Transport and other stakeholders to develop the regime outlined and will continue to work to ensure smooth implementation. Note however, that many of the measures are already being complied with voluntarily and will not involve any operational changes.
55. However, not all the groups identified in the surveillance testing regime are currently subject to voluntary testing. Currently Air New Zealand operates its own testing centre at Auckland Airport and is planning to set up testing centres at other airports. Air New Zealand has expressed a strong preference to continue to operate its own testing facilities.
56. We understand that the majority of Air New Zealand crew are currently tested at these centres, however some crew are tested at community-based testing centres.
57. Currently, Air New Zealand conducts around 45 tests per day in Auckland. Around 500 New Zealand-based air crew return from international duty each week meaning that a significant increase in capacity for testing would be required.
58. Officials propose that Air New Zealand would continue to conduct its own crew testing as this will allow for smooth implementation and practically will ensure that crew testing can be aligned with duty rosters. Crew would also be permitted to get tested at any other available testing site (such as community-based testing centres) if they preferred.
59. Air New Zealand has indicated that they will be able to put the surveillance testing regime into place by 19 October 2020. If you agree to this timeframe, the Amendment Order would only bring the requirements for surveillance testing into force from this date.
60. The Ministry of Health intends to review the regime for regulation of New Zealand-based air crew in December 2020 and will report back to you on any significant findings.

Next steps

61. If you sign the attached Order, on the 1 October it will come into force on 3 October.
62. As above, note that the Ministry will review the regime for regulation of New Zealand-based air crew in December 2020, and will report back to you on any significant findings. Officials have committed to working with Air New Zealand to develop protocols to ensure crew follow appropriate public health for crew socialising during layovers and to explore options for future amendments to allow crew to safely socialise outside their hotel rooms.

ENDS.

PROACTIVELY RELEASED

COVID-19 Public Health Response (Air Border, Isolation and Quarantine, and Required Testing) Amendment Order 2020

This order is made by the Minister of Health under sections 11 and 15(1) of the COVID-19 Public Health Response Act 2020 in accordance with section 9 of that Act.

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Order

1 Title

This order is the COVID-19 Public Health Response (Air Border, Isolation and Quarantine, and Required Testing) Amendment Order 2020.

2 Commencement

This order comes into force at 11.59 pm on 4 October 2020.

Part 1

Amendments to COVID-19 Public Health Response (Air Border) Order (No 2) 2020

3 Amendments to COVID-19 Public Health Response (Air Border) Order (No 2) 2020

This Part amends the COVID-19 Public Health Response (Air Border) Order (No 2) 2020.

4 Clause 4 amended (Interpretation)

- (1) In clause 4, replace the definition of **air crew member** with:

aircrew member—

- (a) means a person who is identified as a crew member on the crew manifest for the aircraft on which they arrive in New Zealand; but
- (b) in clause 11A(4)(e), means a person who is identified as a crew member on the crew manifest for the aircraft on which they are to depart a country outside New Zealand

- (2) In clause 4, insert in their appropriate alphabetical order:

airport has the meaning given by subclause (2)

airside, of an airport, means any part of the airport that is inaccessible to the general public but that is accessible to international arriving or international transiting passengers

airside condition has the meaning given by clause 8A

higher-risk route means a route of travel that is designated in accordance with clause 8C

overseas airside condition has the meaning given by clause 8B

- (3) In clause 4, replace the definition of **fellow traveller** with:

fellow traveller, of any person arriving in New Zealand, means,—

- (a) if the person is an aircrew member, an aircrew member arriving in New Zealand on the same aircraft; or

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(b) in any other case, anyone who accompanied the person on the journey to New Zealand

(4) In clause 4, revoke the definition of **security designated aerodrome**.

(5) In clause 4, insert as subclause (2):

(2) A reference in this order to an **airport** that is in New Zealand is a reference to a security designated aerodrome within the meaning of section 2(1) of the Civil Aviation Act 1990.

5 Clause 8 amended (Obligations on persons arriving in New Zealand by air)

(1) In clause 8(2), replace “security designated aerodrome” with “airport”.

(2) In clause 8(4), replace “security designated aerodrome and travelling from that aerodrome” with “airport and travelling from the airport”.

6 New clauses 8A to 8C and cross-headings inserted

Before clause 9, insert:

Airside conditions

8A Airside condition

For the purposes of this Part, a person who arrives in New Zealand by air **meets the airside condition** if, until they depart New Zealand, they remain on the airside of—

- (a) the airport at which they arrive in New Zealand; and
- (b) any other airport through which they transit.

8B Overseas airside condition

For the purposes of this Part, a person who arrives in a country outside New Zealand by air **meets the overseas airside condition** if, until they depart the country, they remain on the airside of—

- (a) the airport at which they arrive in that country; and
- (b) any other airport through which they transit in that country.

Designation of higher-risk routes

8C Designation of higher-risk routes

(1) For the purposes of this Part, the Director-General may, by notice published and notified in accordance with this clause, designate a route of travel between a place outside New Zealand and another place (in or outside New Zealand) as a higher-risk route.

(2) The notice must—

- (a) be published on a publicly accessible Internet site maintained by or on behalf of the New Zealand Government; and
- (b) be notified in the *Gazette*.

Exemptions

7 Clause 10 amended (Diplomatic and consular officials, and New Zealand Defence Force)

In clause 10(b), after “outside”, delete “of”.

8 Clause 11 replaced (Air crew members and medical attendants)

Replace clause 11 with:

11 Aircrew members who meet airside condition

Any aircrew member arriving in New Zealand by air who meets the airside condition is exempt from clause 8.

11A Aircrew members who do not meet airside condition

Exemption generally if ordinarily resident

- (1) Any aircrew member arriving in New Zealand by air who does not meet the airside condition, but is ordinarily resident in New Zealand, is exempt from clause 8(3).

Exception: higher-risk route

- (2) However, they are not exempt from clause 8(3) if they have travelled on a higher-risk route within the 7 days immediately before that arrival.

Exception: failure to meet key safety standards

- (3) They are also not exempt from clause 8(3) if a medical officer of health determines (on the basis of information brought to that officer’s attention) that there are reasonable grounds to believe that, within the 7 days immediately before that arrival and while outside New Zealand, the aircrew member has failed to meet 1 or more of the key safety standards.

- (4) An aircrew member **meets the key safety standards** if, while outside New Zealand, they—

- (a) wear personal protective equipment at all times (to the greatest extent practicable)—
 - (i) while working in a role involving direct interaction with aircraft passengers; or
 - (ii) while in any place other than on an aircraft or in a specified room at any accommodation where the aircrew member is staying; and
- (b) maintain physical distancing from all other persons (to the greatest extent practicable) other than—

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- (i) persons on an aircraft on which the crew member is working; or
 - (ii) fellow crew members of the aircrew member; and
 - (c) meet the overseas airside condition after arriving in a country outside New Zealand if—
 - (i) not staying in any accommodation before departing the country; or
 - (ii) staying in any accommodation on the airside of an airport before departing the country; and
 - (d) travel as directly as practicable to any accommodation where they are staying; and
 - (e) meet the self-isolation standards at that accommodation until they are required to travel from it to carry out their duties as an aircrew member.
- (5) An aircrew member **meets the self-isolation standards** if—
 - (a) they do not leave their allocated room at any accommodation where they are staying except—
 - (i) to preserve or protect their own or another person's life, health, or safety in an emergency; or
 - (ii) to access medical services; or
 - (iii) to visit a specified room at that accommodation; and
 - (b) they do not permit any other persons to enter their allocated room except—
 - (i) for medical, emergency, or law enforcement purposes; or
 - (ii) fellow crew members of the aircrew member.
- (6) In this clause,—
 - fellow crew member**, of an aircrew member in a country outside New Zealand, means a person who is identified (along with the aircrew member) as being a crew member on the crew manifest for the aircraft on which both arrive in that country
 - specified room**, at the accommodation where an aircrew member is staying, means—
 - (a) the aircrew member's allocated room at the accommodation; or
 - (b) the allocated room, at the accommodation, of a fellow crew member of the aircrew member.

11B Medical attendants who meet airside condition

The following persons arriving by air in New Zealand are exempt from clause 8 if they meet the airside condition:

- (a) any person assisting, as a medical attendant, with a medical air transfer to New Zealand:

- (b) any person arriving in New Zealand to assist, as a medical attendant, with a medical transfer from New Zealand.

9 Clause 12 amended (Crew of ship)

In clause 12(1)(a), replace “security designated aerodrome” with “airport”.

10 Clause 14 amended (Minister may replace exemptions under clauses 11 to 13)

In clause 14(3), after “clause 11,”, insert “11A, 11B,”.

Part 2

Amendments to COVID-19 Public Health Response (Isolation and Quarantine) Order 2020

11 Amendments to COVID-19 Public Health Response (Isolation and Quarantine) Order 2020

This Part amends the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020.

12 Clause 4 amended (Interpretation)

- (1) In clause 4, insert in their appropriate alphabetical order:

aircrew member—

- (a) means a person who is identified as a crew member on the crew manifest for the aircraft on which they arrive in New Zealand; but
- (b) in clause 11(4B)(a), means a person who is identified as a crew member on the crew manifest for the aircraft on which they are to depart New Zealand

period of self-isolation has the meaning given by clause 15E

relevant worker has the meaning given by clause 15B(1)

- (2) In clause 4, replace the definition of **fellow resident** with:

fellow resident, of any person (**person A**),—

- (a) means another person who is isolated or quarantined in the same room as person A at their place of isolation or quarantine; and
- (b) includes another person who is isolated or quarantined at the same MIQF as person A and who—
- (i) is designated by the site manager of the MIQF as a fellow resident of person A under clause 14A; or
- (ii) is a caregiver of person A and, because of clause 15(2)(a), is treated as being a fellow resident of person A

- (3) In clause 4, insert as subclause (2):

- (2) In this order, a reference to a person's **arrival in New Zealand** is a reference to the person's most recent arrival in New Zealand from a country outside New Zealand.

13 Part 1 heading amended

In the Part 1 heading, after "**quarantine**", insert "**generally**".

14 Clause 7 amended (Part applies to relevant persons)

In clause 7, insert as subclause (2):

- (2) However, this Part does not apply to a relevant worker.

15 Clause 10 amended (Period of isolation or quarantine)

- (1) In clause 10(2)(a), replace ":", with "; or".
- (2) Replace clause 10(3) with:
- (3) However, if another person is designated as their fellow resident, and the fellow resident's start time under subclause (2) is a later start time, the person's **start time** becomes that later start time.
- (3A) See clause 15(2)(c) in relation to the start time of caregivers.

16 Clause 11 amended (Early end to period of isolation or quarantine for certain people)

- (1) Replace clause 11(3) with:
- (3) Subclause (4) applies to a person who is scheduled to depart New Zealand during the period under clause 10(1) (a **scheduled departer**), other than—
- (a) an aircrew member; or
- (b) a person who assisted, or is to assist, as a medical attendant as described by subclause (4A)(b).
- (2) After clause 11(4), insert:
- Exception for overseas-based aircrew and medical attendants*
- (4A) Subclause (4B) applies to a scheduled departer who is not ordinarily resident in New Zealand and who—
- (a) is an aircrew member; or
- (b) arrived in New Zealand by air—
- (i) while assisting, as a medical attendant, with a medical air transfer to New Zealand; or
- (ii) to assist, as a medical attendant, with a medical air transfer from New Zealand.
- (4B) Their **period of isolation or quarantine** ends—

- (a) when they are required to travel in order to carry out their duties as an aircrew member, or a medical attendant, on an aircraft that is scheduled for departure; or
 - (b) if paragraph (a) does not apply, 12 hours before their scheduled departure from New Zealand, as long as they leave their place of isolation or quarantine only to travel to the place of departure and depart accordingly.
- (4C) A scheduled departer whose period of isolation or quarantine ends under sub-clause (4) or (4B) must comply with any directions of the chief executive of MBIE (given on the advice of a medical officer of health or a health protection officer) relating to the travel of the scheduled departer to the place of departure.

17 Clause 13 amended (Leaving place of isolation or quarantine)

- (1) In clause 13(a), replace “outdoor exercise” with “any activity (for example, exercise)”.
- (2) After clause 13(a), insert:
 - (aa) to visit the room of a fellow resident; or

18 New clause 14A inserted (Designation of relevant persons as fellow residents)

After clause 14, insert:

14A Designation of relevant persons as fellow residents

- (1) The site manager of an MIQF may designate a relevant person as the fellow resident of another relevant person if—
 - (a) they were fellow travellers when they arrived in New Zealand; or
 - (b) the site manager is satisfied that the designation would be appropriate for the purposes of keeping connections with family or whānau or enabling caregiving or support.
- (2) In this clause, **fellow traveller**, of any person arriving in New Zealand, means,—
 - (a) if the person is an aircrew member, an aircrew member arriving in New Zealand on the same aircraft; or
 - (b) in any other case, anyone who accompanied the person on the journey to New Zealand.

19 Clause 15 amended (Caregivers of vulnerable people)

- (1) In the heading to clause 15, after “of”, insert “children and other”.
- (2) In clause 15(1), delete “in their room”.
- (3) Replace clause 15(2)(a) and (b) with:

- (a) is to be treated as being a relevant person, and a fellow resident of the vulnerable person, for the purposes of this Part; and
- (4) In clause 15(2)(c), replace “under” with “for the purposes of”.
- (5) After clause 15(2), insert:
- (2A) This clause does not apply to a caregiver if they are a relevant person independently of this clause.

20 New Part 1A inserted

After clause 15A, insert:

Part 1A
Requirements for self-isolation by relevant workers

15B Part applies to relevant workers

- (1) This Part applies to a person (a **relevant worker**) who—
 - (a) is required by the Air Border Order to be isolated or quarantined in accordance with this order; and
 - (b) is ordinarily resident in New Zealand; and
 - (c) is a relevant crew member or a relevant medical attendant.
- (2) In this clause,—

Air Border Order means the COVID-19 Public Health Response (Air Border) Order (No 2) 2020

relevant crew member means an aircrew member who travelled on a higher-risk route (within the meaning of the Air Border Order) within the 7 days immediately before their arrival by air in New Zealand

relevant medical attendant means a person who, on arrival by air in New Zealand,—

- (a) was assisting, as a medical attendant, with a medical air transfer to New Zealand; or
- (b) was returning from assisting, as a medical attendant, with a medical air transfer from New Zealand.

15C Requirement to notify Ministry of Health

- (1) Before departing the security designated aerodrome at which they arrive in New Zealand, a relevant worker must notify the Ministry of Health, in the manner approved by the Director-General, of—
 - (a) the address of the residence or other accommodation that they intend to be their place of self-isolation; and
 - (b) an email address and telephone number at which they may be contacted.

- (2) In this clause, **security designated aerodrome** has the meaning given by section 2(1) of the Civil Aviation Act 1990.

15D Requirements for self-isolation

- (1) A relevant worker must comply with the requirements set out in this clause throughout their period of self-isolation.
- (2) They must remain at the accommodation notified to the Ministry of Health as their place of self-isolation, except as permitted by this Part.
- (3) They must maintain physical distancing (to the greatest extent practicable) from every person in or outside their place of self-isolation.
- (4) They must not permit any other person to enter their accommodation unless—
- (a) the place is a residence at which the other person lives; or
 - (b) the entry is for the purposes of preserving or protecting the relevant worker's or another person's life, health, or safety in an emergency.
- (5) They must wear personal protective equipment at all times (to the greatest extent practicable) when outside their place of self-isolation.

15E Period of self-isolation

A relevant worker's **period of self-isolation** is the period—

- (a) commencing as soon as practicable after they arrive in New Zealand; and
- (b) ending when they receive a negative result from the medical examination and testing they are required to undergo by this Part (but ending no later than 14 days after the time and date of their arrival in New Zealand).

15F Medical examination and testing

- (1) A relevant worker must report for, and undergo, medical examination and testing for COVID-19 after at least 48 hours have passed since the time and date of their arrival in New Zealand.
- (2) That medical examination and testing must involve taking nose swabs or mouth swabs (or both).

15G Leaving place of self-isolation

A relevant worker is permitted to leave the accommodation notified to the Ministry of Health as their place of self-isolation—

- (a) to report for, and undergo, medical examination required by this Part; or
- (b) if they need to leave to preserve or protect their own or another person's life, health, or safety in an emergency; or
- (c) to access medical services; or

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- (d) to attend any court, tribunal, New Zealand Parole Board hearing, or other judicial institution that they are required or permitted to attend by that institution; or
- (e) if a medical officer of health is satisfied that they need to leave to move to another place for isolation or quarantine (for example, for temporary or emergency care while they are sick); or
- (f) if they are required to move to another place for isolation or quarantine by—
 - (i) a court order; or
 - (ii) any other obligation imposed by or under an enactment.

Part 3

**Amendments to COVID-19 Public Health Response (Required
Testing) Order 2020**

**21 Amendments to COVID-19 Public Health Response (Required Testing)
Order 2020**

This Part amends the COVID-19 Public Health Response (Required Testing) Order 2020.

22 Clause 4 amended (Interpretation)

In clause 4, insert in their appropriate alphabetical order:

aircrew member means any of the following persons:

- (a) cabin crew who—
 - (i) are ordinarily resident in New Zealand; and
 - (ii) work on an international flight on or after 19 October 2020;
- (b) other persons who—
 - (i) are ordinarily resident in New Zealand; and
 - (ii) are identified as crew members on a crew manifest for an aircraft that has travelled internationally on or after 19 October 2020; and
 - (iii) have an international layover (whether airside or landside) during that travel;
- (c) cabin crew who, on or after 19 October 2020, travel on a domestic flight within New Zealand that carries international arriving or international transiting passengers who have not yet completed isolation or quarantine at a managed isolation or quarantine facility

landside, in relation to an affected airport, means any part of the affected airport that is not airside

23 Clause 8 amended (Exemptions from testing and medical examination)

After clause 8(4), insert:

- (5) An aircrew member is not required to undergo testing and medical examination under clause 7 if, during an applicable testing period, the aircrew member is required to be tested and isolated or quarantined under another COVID-19 order during that period.

24 Schedule 2 amended

In Schedule 2, after Part 4, insert:

<i>Part 5: Aircrew members</i>			
5.1	Aircrew member	Community testing centre or testing centre at airport	Once every 7 days starting on 19 October 2020

Dated at Wellington this 2nd day of October 2020.



Minister of Health.

Explanatory note

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

This order comes into force at 11.59 pm on 4 October 2020. It makes amendments, mainly concerning aircrew members and certain medical attendants, to the following orders:

- the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 (the **Air Border Order**);
- the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020 (the **Isolation and Quarantine Order**);
- the COVID-19 Public Health Response (Required Testing) Order 2020 (the **Required Testing Order**).

Part 1

Part 1 of this order amends the Air Border Order.

Currently, aircrew members and certain medical attendants arriving in New Zealand by air are exempt from all of the requirements that are generally imposed by clause 8 of that order on other persons arriving in New Zealand by air. Those requirements include requirements—

- to report for and undergo medical examination and testing at the airport at which they arrive; and

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Explanatory note

- to be isolated or quarantined (commencing as soon as practicable after arrival) in accordance with the Isolation and Quarantine Order.

Aircrew members and relevant medical attendants arriving in New Zealand by air will continue to be exempt from all of the requirements if, until they depart New Zealand, they remain on the airside of—

- the airport at which they arrive in New Zealand; and
- any other airport through which they transit.

Generally, aircrew members not remaining on the airside of those airports, but who are ordinarily resident in New Zealand, will continue to be exempt from the requirement to be isolated or quarantined in accordance with the Isolation and Quarantine Order. However, they will not be exempt from that requirement if,—

- within the 7 days immediately before they arrive in New Zealand, they have travelled on an international route of travel that is designated by the Director-General of Health as a higher-risk route; or
- a medical officer of health determines that there are reasonable grounds to believe that, within the 7 days immediately before they arrive in New Zealand and while outside New Zealand, they have failed to meet certain key safety standards.

Those key safety standards include standards relating to—

- wearing personal protective equipment; and
- maintaining physical distancing; and
- self-isolating at any accommodation at which they stay while outside New Zealand.

Part 2

Part 2 of this order amends the Isolation and Quarantine Order. The amendments mainly concern the aircrew members and medical attendants who are required to be isolated or quarantined because of the amendments made to the Air Border Order by *Part 1*.

A person's period of isolation or quarantine under the Isolation and Quarantine Order generally lasts 14 days, so long as they meet certain low-risk indicators by then. However, the period for aircrew members, and relevant medical attendants, who are not ordinarily resident in New Zealand will generally end earlier to allow for their scheduled departure from New Zealand (for example, when they are required to travel in order to carry out their duties on an aircraft scheduled for departure).

Aircrew members who are ordinarily resident in New Zealand and travelled on a higher-risk route within the 7 days before their arrival in New Zealand will be required to self-isolate at accommodation notified to the Ministry of Health as their place of self-isolation. Medical attendants ordinarily resident in New Zealand will also be required to self-isolate at notified accommodation. In both cases, their period of self-isolation will commence as soon as practicable after they arrive in New Zealand.

land and end when they receive a negative result following medical examination and testing for COVID-19 (but no later than 14 days after that arrival). They must report for, and undergo, that medical examination and testing after at least 48 hours have passed since their arrival in New Zealand.

Aircrew members who are ordinarily resident in New Zealand, and are required to be isolated or quarantined because of a determination under the Air Border Order relating to their failure to meet key safety standards, will generally be required to do so in a managed isolation or quarantine facility for at least 14 days.

The Isolation and Quarantine Order is also amended to make changes relating to fellow residents at places of isolation or quarantine. The main effect of persons being fellow residents at those places is that they are not required to maintain physical distancing from each other while in isolation or quarantine. The amendments—

- ensure that fellow residents need not be isolated or quarantined together in the same room; and
- enable a site manager at a managed isolation or quarantine facility to designate a person as a fellow resident of another person at the facility (for example, if they were fellow travellers when they arrived in New Zealand).

Part 3

Part 3 of this order amends the Required Testing Order. The amendments—

- amend *clause 4* to insert new definitions of aircrew member and landside; and
- add *new Part 5* to the table in Schedule 2, which specifies groups of affected persons who must report for and undergo testing for COVID-19, to extend the requirements to aircrew members; and
- add *new clause 8(5)*, which exempts an aircrew member from the requirements if, during the applicable testing period, the aircrew member is required to be tested and isolated or quarantined under another COVID-19 order.

Order revoked without resolution of House

This order must be approved by a resolution of the House of Representatives before the end of the relevant period described in section 16(2) of the COVID-19 Public Health Response Act 2020. If that does not happen, the order is revoked at the end of that period.

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*:

This order is administered by the Ministry of Health.