

Briefing

Exemption from the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 for medical attendants undertaking transfers in the Pacific

Date due to MO:	N/A	Action required by:	ASAP
Security level:	IN CONFIDENCE	Health Report number:	20202273
To:	Hon Chris Hipkins, Minister for COVID-19 Response		

Contact for telephone discussion

Name	Position	Telephone
Dr Ashley Bloomfield	Director-General of Health	s 9(2)(a)
Maree Roberts	Deputy Director-General, System Strategy and Policy	s 9(2)(a)

Minister's office to complete:

- | | | |
|---|------------------------------------|--|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Decline | <input type="checkbox"/> Noted |
| <input type="checkbox"/> Needs change | <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn | |

Comment:

Exemption from the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 for medical attendants undertaking transfers in the Pacific

Security level: IN CONFIDENCE **Date:** 11 December 2020

To: Hon Chris Hipkins, Minister for COVID-19 Response

Purpose of report

1. This briefing recommends that you grant an exemption from clauses 8(3) of the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 (Air Border Order), until 30 June 2021 for medical attendants employed by the New Zealand Air Ambulance Service Ltd (NZAAS) who are ordinarily resident in New Zealand who are travelling back from undertaking work in the Pacific.

Summary

2. On 4 October 2020 the Air Border Order was amended to include strengthened regulations for aircrew and medical attendants who travel internationally.
3. New Zealand-based medical attendants are exempt from 14 days of managed isolation. However, they are required to self-isolate for at least 48 hours before getting a COVID-19 test and may only complete self-isolation once a negative result has been received.
4. The NZAAS has indicated, on 9 December 2020, that, in order for the service to continue to operate effectively, they will need their medical attendants to be exempt from the requirement at clause 8(3) of the Air Border Order (self-isolate for at least 48 hours and staying in self-isolation until receiving a negative COVID-19 test result).
5. NZAAS has informed the Ministry of Health that the isolation requirement in the Air Border Order has meant that all commercial aeromedical operations in the Pacific will be suspended.
6. Under clause 15 of the Air Border Order you may exempt any person or class of persons from the requirement to comply with any provision of the Order if you are satisfied that:
 - a. the exemption is necessary and desirable to promote the purposes of the COVID-19 Public Health Response Act 2020 (the Act) or the purposes of the Order; and
 - b. the extent of the exemption is not broader than is reasonably necessary to address the matters giving rise to the exemption.

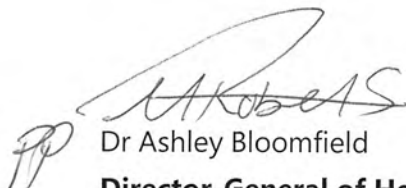
7. When deciding whether to grant the exemption and what (if any) conditions to impose, you must take into account my advice on the public health implications.
8. My advice is that the exemption meets the purpose of the Act, as granting the exemption poses a low risk of contributing to the outbreak or spread of COVID-19 in New Zealand.
9. I am satisfied that the risk of medical attendants contracting COVID-19 while in the Pacific is very low. This advice is based on a risk assessment undertaken by Ministry officials.
10. Alongside my advice on public health implications, other purposes under the Act including social and economic impacts, may be relevant when you are considering exemptions under the Air Border Order.
11. NZAAS provide aeromedical services in the South Pacific and many small Pacific nations rely on NZAAS services to transfer patients in critical condition to New Zealand for appropriate treatment. Interruptions in service are likely to have significant impacts for patients. For example, NZAAS plan to retrieve two patients on behalf of the Cook Island Ministry of Health this Saturday: a baby with a head injury and a respiratory patient, both who require treatment in New Zealand.
12. If the public health risk changes, the exemption will be reviewed and can be amended or withdrawn by you as appropriate.


Recommendations

We recommend you:

- a) **Note** that under the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 you may exempt any person or class of persons from the requirement to comply with any provision of the Order. **Noted**
- b) **Note** that under the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 you must take into account the advice of the Director-General of Health when deciding whether to grant an exemption and what, if any, conditions to impose on an exemption. **Noted**
- c) **Note** that the New Zealand Air Ambulance Service is seeking an exemption from the Order to:
 - exempt medical attendants working for the New Zealand Air Ambulance Service in the Pacific from having to complete a period isolation or quarantine upon return to New Zealand (clause 8(3)). **Noted**
- d) **Note** that I consider there is a low risk that granting this exemption will contribute to the outbreak or spread of COVID-19 in New Zealand. **Noted**
- e) **Note** that I consider that this exemption is required immediately to enable commercial air retrieval services to continue in the Pacific. **Noted**

- f) **Sign** the attached Exemption Notice which grants an exemption from clause 8(3) of the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 to medical attendants (who are ordinarily resident in New Zealand) who are travelling in the course of their work for the New Zealand Air Ambulance Service. ☒ **Yes** ☐ **No**


Dr Ashley Bloomfield
Director-General of Health


Hon Chris Hipkins
Minister for COVID-19 Response
Date: 11/12/2020

PROACTIVELY RELEASED

Exemption from the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 for medical attendants undertaking transfers in the Pacific

Background

1. Under the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 (Air Border Order), medical attendants are subject to different requirements to other arrivals to New Zealand. For example, New Zealand based medical attendants are not required to enter managed isolation but are required to self-isolate for at least 48 hours before getting a test for COVID-19 and continuing to self-isolate until a negative test result is received.
2. The New Zealand Air Ambulance Service (NZAAS) is seeking a Ministerial exemption from the Air Border Order to:
 - a. exempt medical attendants, working for the NZAAS undertaking retrievals in the Pacific, from having to complete a period isolation or quarantine upon return to New Zealand (clause 8(3)).
3. The NZAAS undertakes many aeromedical transfers of patients from the Pacific to New Zealand. They follow infection prevention and control (IPC) guidelines and have a strict testing regime, which includes pre-departure testing for most destinations. They also take part in regular surveillance testing – at least twice over a period of 14 days following all transfers.
4. All medical attendants are required by the Air Border Order to undergo a period of self-isolation, as specified in the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020.

Details of the exemption

5. The NZAAS requires an exemption to continue to provide their commercial air retrieval service to the Pacific. Due to their staffing constraints, they do not have enough medical attendants to complete their scheduled (and ad hoc) medical air transfers and complete the required isolation period upon every return to New Zealand.
6. NZAAS only have 8 medical practitioners (doctors) and 4 nurses who undertake these particular medical air transfers. This means that, if they were to comply with the self-isolation period, they have informed us that there would be significant service gaps.
7. The exemption only applies to medical attendants who are undertaking medical air transfers from the following Pacific nations:
 - a. Cook Islands
 - b. Fiji
 - c. Samoa
 - d. Niue

- e. Tonga
 - f. Vanuatu
 - g. New Caledonia
 - h. American Samoa
 - i. Tahiti
 - j. Tokelau
 - k. Tuvalu
 - l. Kiribati.
8. The NZAAS is a limited liability company that is a fully accredited aeromedical service in New Zealand. The NZAAS holds contracts with the Ministry, and with district health boards.
9. The NZAAS have provided some examples of planned retrievals that they have coming up. These include:
- a. two retrievals from the Cook Islands on behalf of the Cook Island Ministry of Health. These two patients are a baby with a head injury and a respiratory patient, both of whom require treatment in New Zealand; and
 - b. four patients who are being escorted on behalf of the Samoan Ministry of Health to be transferred to Auckland hospitals upon arrival.
10. The proposed exemption will exempt any medical attendants who are:
- a. ordinarily resident in New Zealand; and
 - b. arriving in New Zealand after assisting with a medical air transfer to or from New Zealand; and
 - c. have arrived from a place in the Pacific Islands.

Risk mitigation

Risk assessment

11. Ministry officials have undertaken a risk assessment of NZAAS medical transfers. They have assessed that if a medical transfer is low risk, those medical attendants may return home and operate as usual after the transfer.
12. Medical transfers from Pacific Island nations have been deemed low risk.
13. The NZAAS have informed the Ministry that their medical attendants maintain physical distancing to the greatest extent practicable, follow PPE guidelines and adhere to a strict testing regime.
14. The Ministry officials have reviewed the NZAAS infection prevention and control protocols and are satisfied that they are appropriate to mitigate the risk of exposure to COVID-19.
15. We are aware that there have been positive cases in some of the Pacific Islands listed in paragraph 7 above (e.g. Fiji and Tahiti). However, given the NZAAS risk mitigation protocols already in place, we do not consider that travel under these conditions presents an increased risk of introducing COVID-19 into New Zealand relative to the others (e.g. because the people involved do not go landside). Our public health experts

undertook their evaluation of the sufficiency of NZAAS protocols based on an understanding of which Pacific Islands would be visited and are nevertheless satisfied that the protocols will mitigate the risks sufficiently.

16. The medical attendants who undertake medical transfers are health professionals such as intensive care practitioners. They therefore are highly trained in infection prevention and control procedures which further mitigates the risk.

Mitigation measures

17. Your office has requested the following information on how the risks associated with providing this exemption to NZAAS will be managed.
18. NZAAS have informed us that their staff undertake weekly nasopharyngeal testing for COVID-19. In addition, they also meet the entry requirements of the countries that they are travelling to, which involves presenting a negative pre-departure COVID-19 test for most of the Pacific nations listed above. We have confirmed that NZAAS intends to continue weekly testing of all Air Ambulance staff returning to New Zealand.
19. NZAAS also undertake precautions to ensure that COVID-19 does not spread from New Zealand to the Pacific by minimising contact with any persons on the ground in the Pacific (by remaining airside).

Statutory power to grant an exemption

20. You may exempt any person or class of person from the requirement to comply with any provision of the Air Border Order if you are satisfied that:
 - a. the exemption is necessary and desirable in order to promote the purposes of the Act or Air Border Order; and
 - b. the extent of the exemption is not broader than is reasonably necessary to address the matters giving rise to the exemption.
21. When deciding whether to grant an exemption and what (if any) conditions to impose you must take into account my advice on the public health implications.

Alignment with the purpose of the Act: preventing the spread of COVID-19

22. Section 4 of the Act outlines the Act's purpose as supporting a public health response to COVID-19 that:
 - a. prevents, and limits the risk of, the outbreak or spread of COVID-19 (taking into account the infectious nature and potential for asymptomatic transmission of COVID-19); and
 - b. avoids, mitigates, or remedies the actual or potential adverse effects of the COVID-19 outbreak (whether direct or indirect); and
 - c. allows social, economic and other factors to be taken into account where it is relevant to do so; and
 - d. is economically sustainable and allows for recovery of MIQF costs; and
 - e. has enforceable measures, in addition to the relevant voluntary measures and public health and other guidance that also supports that response.
23. The risk of spreading COVID-19 to the community is evaluated taking into account:

- a. whether the group seeking an exemption are at a lower risk of having been exposed to COVID-19;
 - b. whether there are appropriate measures in place to reduce the risk of the spread of COVID-19 to the New Zealand community; and
 - c. whether any conditions or mitigation measures are likely to be complied with and the associated risk if conditions are not complied with.
24. I consider this exemption is unlikely to create a significant risk of spreading COVID-19 to the New Zealand community as medical attendants for NZAAS:
- a. are at a low risk of contracting COVID-19;
 - b. will have taken appropriate precautions while overseas, and
 - c. will be travelling to countries with no or low prevalence of COVID-19.
25. I am satisfied that the medical attendants are highly likely to comply with the conditions of the exemption, based on the assurances provided by the NZAAS, the risk assessment undertaken by Ministry officials and the public trust in the NZAAS.

Alignment with other purposes under the Act

26. Other purposes under the Act may also be relevant when you are considering an exemption request, including the economic impact of the exemption. In particular, section 4(ca) allows social, economic, and other factors to be taken into account where it is relevant to do so.
27. The NZAAS provide a critical health service both in New Zealand and in the South Pacific. They transfer vulnerable patients from Pacific Island nations to ensure that patients receive appropriate care in New Zealand.
28. New Zealand has many obligations to our Pacific Island nations. Arrangements for medical referral and access to medical services exist between New Zealand and the Pacific Realm countries of the Cook Islands, Niue and Tokelau. The Medical Treatment scheme, funded by the Ministry of Foreign Affairs and Trade, also services Fiji, Kiribati, Tonga, Tuvalu and Vanuatu.

Other factors to be taken into consideration

29. The exemption discretion must be exercised consistently with the New Zealand Bill of Rights Act 1990 (NZBORA).
30. The discretion to grant exemptions should be viewed in light of the restrictions imposed on other arrivals to New Zealand under the COVID-19 Public Health (Isolation and Quarantine) Order 2020. If the exemption power is not exercised in line with the purpose of the COVID-19 Act this could have the effect of making managed isolation restrictions on others appear arbitrary and not proportionate to the public health risk.

31. s 9(2)(h)



Next steps

32. If you sign the attached Exemption Notice, the exemption will come into effect on 13 December 2020 and apply until 31 June 2021.

ENDS.

PROACTIVELY RELEASED

Gazette notice

Exemption of persons from clause 8(3) of the COVID-19 Public Health Response (Air Border) Order (No 2) 2020

Pursuant to clause 15 of the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 ("Order"), I, Hon Chris Hipkins, Minister for COVID-19 Response, having taken into account the advice of the Director-General of Health, hereby declare that the following persons:

- medical attendants who are employed or engaged by the New Zealand Air Ambulance Service Ltd;
- who are ordinarily resident in New Zealand; and
- who have travelled to, or from, one of the following places while assisting, as a medical attendant, with a medical air transfer to, or from, New Zealand:
 - Cook Islands
 - Fiji
 - Samoa
 - Niue
 - Tonga
 - Vanuatu
 - New Caledonia
 - American Samoa
 - Tahiti
 - Tokelau
 - Tuvalu
 - Kiribati

who satisfy the following criteria:

- they have taken all reasonable steps to minimise the risk of an outbreak, or the spread of, COVID-19 including by maintaining physical distancing (to the greatest extent possible) and wearing personal protective equipment at all times (to the greatest extent practicable);

are exempt from clause 8(3) of the Order.

The exemption will begin at 11.59pm on 13 December 2020. This exemption expires at 11.59pm on 31 June 2021.

Dated at Wellington this 11th day of December 2020



Hon Chris Hipkins

Minister for COVID-19 Response

PROACTIVELY RELEASED