

Briefing

Exemption from the COVID-19 Public Health Response (Air Border) Order (No 2) for aircrew safety training instructor

Date due to MO:	9 April 2021	Action required by:	9 April 2021
Security level:	IN CONFIDENCE	Health Report number:	20210800
To:	Hon Chris Hipkins, Minister for COVID-19 Response		
Copy to:	Hon Michael Wood, Minister of Transport		

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 Withdrawn | |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) for aircrew safety training instructor

Security level: IN CONFIDENCE **Date:** 9 April 2021

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

Purpose of report

1. This briefing recommends you grant an exemption for an Australian-based aircrew safety training instructor from the requirement to be isolated or quarantined on arrival in New Zealand. This would require you to grant an exemption from clause 8 of the COVID-19 Public Health Response (Air Border) Order (No 2) (the Air Border Order).

Summary

2. Trans-Tasman Quarantine Free Travel (TT QFT) is due to commence at 11:59pm on 18 April. In order for TT QFT to commence, it is essential for airlines to ensure aircrew are up to date with regulatory and safety requirements so that flights can be operated legally and safely.
3. Jetconnect Limited (Jetconnect) is a wholly-owned subsidiary of Qantas Group and a New Zealand-registered company. It has approximately 350 pilots and cabin crew based primarily in Auckland and Wellington who fly Qantas aircraft between New Zealand and Australia.
4. As a subsidiary of an Australian company, Jetconnect (and the Qantas fleet) is regulated by the Australian Civil Aviation Safety Authority, rather than New Zealand's Civil Aviation Authority. There are no New Zealand-based instructors who can deliver the necessary training to operate the Qantas trans-Tasman fleet, and Qantas strongly asserts that elements of the training (eg: safety elements) must be given in person, rather than remotely.
5. Jetconnect is therefore seeking an exemption from the isolation and quarantine requirements in the Air Border Order for a single Sydney-based aircrew safety training instructor. This instructor will travel to Auckland to deliver regulatory and safety-essential training that is required to re-certify New Zealand-based pilots and cabin crew to operate Qantas aircraft on trans-Tasman routes. The instructor is a New Zealand citizen.
6. Jetconnect has indicated that if it is unable to have an instructor arrive in New Zealand at least the week before quarantine free travel commences (that is, by 12 April), there may be significant risk of insufficient safety-certified crew to operate the flights, possibly resulting in delays or cancellations of flights.

7. Qantas representatives have made the point that Air New Zealand does not have the same constraints that it does, as its staff are already able to enter Australia quarantine-free to support TT QFT preparations in Australia.
8. A public health risk assessment has been undertaken against the context of the Elimination Strategy to evaluate whether exemption of the instructor from the requirement to be isolated or quarantined on arrival will lead to an unacceptable risk of transmission of COVID-19. On balance, the public health risk of granting an exemption for the instructor is considered to be low provided a number of conditions are met pre-travel, in-flight, and upon arrival (as outlined in paragraphs 15 to 19 of this report).
9. Officials recommend that you grant an exemption to the Qantas instructor, pursuant to clause 26 of the Air Border Order, to travel to New Zealand to deliver training to Jetconnect's New Zealand-based staff. Officials recommend that the exemption is granted effective immediately, in order for it to come into force by 12 April. The Ministry of Health (the Ministry) will notify Qantas on your behalf.

Recommendations

We recommend you:

- a) **Note** under clause 26 of 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** 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 Jetconnect Limited has requested an exemption for an aircrew safety training instructor from Sydney to travel to New Zealand, to deliver regulatory and safety-essential training required to re-certify pilots and cabin crew to operate Qantas aircraft, in preparation for the commencement of Trans-Tasman Quarantine-Free Travel. **Noted**
- d) **Note** that, given the range of measures proposed to mitigate any COVID-19 risk, I consider there is a low residual risk that granting this exemption will contribute to the outbreak or spread of COVID-19 in New Zealand. **Noted**
- e) **Agree** to an exemption from clause 8 of the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 for an aircrew safety training instructor from Sydney to travel to New Zealand, in order to deliver regulatory and safety-essential training to pilots and cabin crew of Qantas aircraft. **Yes/No**

- f) **Note** that, if you agree to this exemption, I recommend it be granted immediately in order for it to come into force by 12 April 2021 to allow for training to be completed before the quarantine free travel zone is made live from 19 April. **Noted**
- g) **Note** that if you agree to this exemption, officials will notify Jetconnect Limited of the exemption being granted on your behalf. **Noted**



Dr Ashley Bloomfield

Director-General of Health

Date: 8/04/2021



Hon Chris Hipkins

Minister for COVID-19 Response

Date: 9/4/21

PROACTIVELY RELEASED

Exemption from the COVID-19 Public Health Response (Air Border) Order (No 2) for aircrew safety training instructor

Background and context

1. TT QFT is due to commence at 11:59pm on 18 April. In order for TT QFT to commence, it is essential for airlines to ensure aircrew are up to date with regulatory and safety requirements so that flights can be operated legally and safely.
2. Jetconnect is a wholly-owned subsidiary of Qantas Group and a New Zealand-registered company. It has approximately 350 pilots and cabin crew based primarily in Auckland and Wellington who fly Qantas aircraft between New Zealand and Australia.
3. Pilots and cabin crew have a primary role of ensuring the safety of the flight. To do so, they are highly trained to be able to deal with significant potential emergencies in flight, where a suitable airport may be hours away. Key elements of flight safety are security, (for example, passenger issues, dangerous goods and fires) and aviation medicine (for example, cabin decompressions and in-flight medical emergencies). All these elements are regulated by civil aviation regulations.
4. As a wholly-owned subsidiary of Qantas, Jetconnect operates according to Australian civil aviation regulations. Therefore, Qantas's safety management system reflects Australian regulatory requirements. This includes requirements relating to the qualifications and certification of those who train the aircrew who operate the Qantas trans-Tasman fleet.
5. Jetconnect did have two fully qualified aircrew instructors based in New Zealand, but because all of Jetconnect's pilots and cabin crew were stood down in late March 2019, the company lost its New Zealand-based qualified instructors.
6. The lack of instructors in New Zealand, and the different regulatory requirements in Australia, means Jetconnect cannot find a suitable New Zealand-based instructor. Qantas have stated that the typical training time required for an instructor at this level is two years.
7. Jetconnect is therefore reliant on an Australian-based instructor travelling to New Zealand to re-certify crew before trans-Tasman flights can be undertaken. Accordingly, Jetconnect has requested an exemption for a Sydney-based aircrew safety training instructor to travel from Sydney to Auckland without undertaking 14-day managed isolation and quarantine. The instructor holds a New Zealand passport.
8. Jetconnect has indicated that if it is unable to have an instructor arrive in New Zealand at least the week before quarantine free travel commences, it faces significant risks that the company may have insufficient safety certified crew to operate the flights, meaning that delays or cancellations of flights are a possibility.

Re-starting trans-Tasman routes requires recertification and training of New Zealand-based aircrew by an Australian-based instructor

9. The instructor will deliver regulatory and safety-essential training that is required to re-certify pilots and cabin crew to operate Qantas aircraft. In order to deliver the training to the necessary standard, a highly experienced and Australian Civil Aviation Safety Authority qualified instructor is required. The training will cover airline operator regulatory requirements, emergency procedures, aviation medicine and flight security.
10. Training is conducted to comply with Australian Government regulations in Civil Aviation Order Parts 20.11, 82.5 and Civil Aviation Regulation 217 as well as relevant Australian Civil Aviation Safety Regulations. The re-certification of emergency procedures is required to be conducted in person as there is a requirement to 'demonstrate' the operation of emergency evacuation procedures and equipment, including aircraft exits, slides, rafts, fire extinguishers, aircraft evacuations and other safety gear.
11. Where possible, elements of the Emergency Procedure Re-certification training are conducted using computer-based course delivery, for example, the rules relating to dangerous goods. However, to ensure aircrew are proficient, there is a requirement to demonstrate procedural and equipment proficiency as detailed above.

Officials have assessed the request for an exemption from a public health perspective and conclude the risk of granting the exemption is low

12. A public health risk assessment has been undertaken to evaluate whether exempting the instructor from the usual 14-day isolation period will lead to an unacceptable risk of transmission of COVID-19 against the context of New Zealand's elimination strategy.
13. Currently Australia is considered a low risk country and, as of the date of this briefing, is not experiencing community transmission in New South Wales where the pilot is based.
14. The main COVID-19 exposure risk is during commercial air travel between Sydney and Auckland. At present there are no 'green flights' from Sydney to Auckland. Airlines take passengers who may be transiting via Australia from other countries such as Singapore, the United Arab Emirates and the United States of America. The risks arise from spending time in the airport for check-in, in transit lounges, boarding processes, in-flight contact with others, and the disembarkation process.
15. These travel risks can be managed through meticulous attention to infection prevention and control measures (IPC). Jetconnect and the instructor have confirmed, or will confirm the following conditions are met, prior to the instructor travelling to New Zealand:
 - a. they have not travelled outside of Australia in the past 14 days;
 - b. they have not been to any places of interest or hot-spots in relation to any current community clusters in the last 14 days;
 - c. they have not been identified as a close or casual contact of any cases;
 - d. they have had a negative pre departure test within the 72 hours prior to arriving in New Zealand; and
 - e. they are not experiencing symptoms of COVID-19 at time of departure.

16. The Ministry is satisfied that the risks associated with the factors below have, or will be, mitigated:
- a. the instructor is travelling to New Zealand on a Qantas commercial flight as a passenger. This risk will be mitigated by requiring the instructor to self-quarantine until the day 0/1 testing for other passengers on the flight is returned; and
 - b. they will be staying in a non-MIQ hotel in Auckland CBD, likely Cordis Auckland.
17. The instructor reports that he received his first vaccination against COVID-19 on Thursday 1 April, which is a relevant risk mitigation factor.
18. On arrival in New Zealand, the instructor will comply with the following further conditions:
- a. a health declaration will be filled out;
 - b. the COVID-19 tracker app must be downloaded and used;
 - c. daily symptom checks will be undertaken for 14 days;
 - d. day 5 and day 12 swabs will be administered (noting that day 12 applies only if still in New Zealand at that time);
 - e. additional contacts outside of training sessions will be minimised by all interaction limited to going to work and then straight back to the hotel during non-work hours;
 - f. no attendance at large events or crowded areas (including pubs); and
 - g. if symptoms develop, Healthline will be called, with the instructor self-isolating at the hotel while awaiting a test and a test result.
19. Qantas has been informed that the instructor should be prepared that, if there is a positive case on their commercial flight to NZ, they may be considered a close contact (depending on the seating arrangement onboard) and therefore be required to self-isolate for 14 days and undertake further testing.
20. On balance, I have concluded that, by following the above steps, the public health risk of the requested exemption for the instructor is low.

Statutory power to grant an exemption

21. Under clause 26 of the Air Border Order, you may exempt any person or class of persons 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 COVID-19 Public Health Response Act 2020 (the COVID-19 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.
22. 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.
23. Section 4 of the COVID-19 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 Managed Isolation and Quarantine Facilities (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.

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

- 24. The risk of spreading COVID-19 to the community is evaluated taking into account whether:
 - a. the group seeking an exemption is at a lower risk of having been exposed to COVID-19;
 - b. there are appropriate measures in place to reduce the risk of the spread of COVID-19 to the New Zealand community; and
 - c. any conditions or mitigation measures are likely to be complied with and the associated risk if conditions are not complied with.
- 25. I consider this exemption is unlikely to create a significant risk of spreading COVID-19 to the New Zealand community.
- 26. If you agree to this exemption, officials will notify Qantas of the exemption being granted and its conditions on your behalf.

Alignment with other purposes under the Act

- 27. 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.
- 28. The social and economic benefits achieved through supporting Jetconnect to re-start trans-Tasman flights, including ensuring a level playing field for airline operators, is a relevant consideration that supports the granting of the exemption.

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. **s 9(2)(h)**
[REDACTED]
[REDACTED]
[REDACTED]

Next steps

31. If you agree to this exemption, it will come into force on the same day as you sign this health report. If signed, the Ministry will arrange for Jetconnect to be notified (as required at clause 26(4) of the Air Border Order).

ENDS.

PROACTIVELY RELEASED