

# Briefing

## Enabling a proportionate public health response to New Zealand-domiciled air ambulance aircrew and medical attendants

**Date due to MO:** 28 June 2021 **Action required by:** 30 June 2021

**Security level:** IN CONFIDENCE **Health Report number:** 20211418

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

**Copy to:** Hon Andrew Little, Minister of Health

Hon Nanaia Mahuta, Minister of Foreign Affairs

Hon Michael Wood, Minister of Transport

### Contact for telephone discussion

Name	Position	Telephone
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<b>Maree Roberts</b>	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 Withdrawn |  |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:

# Enabling a proportionate public health response to New Zealand-domiciled air ambulance aircrew and medical attendants

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**Security level:** IN CONFIDENCE      **Date:** 28 June 2021

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

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## Purpose of report

1. This report recommends a sustainable and proportionate public health response to manage New Zealand-domiciled air ambulance aircrew and medical attendants returning to New Zealand, to ensure that:
  - i. the public health risks of these people are effectively managed
  - ii. their services support the wellbeing of the New Zealand and Pacific communities.

## Summary

2. On 18 December 2020, you granted the New Zealand Air Ambulance Service (NZAAS) a conditional exemption to the managed isolation and quarantine (MIQ) requirements resulting from the COVID-19 Public Health Response (Air Border) Order 2020 (Air Border Order) and the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020 (the Isolation and Quarantine Order) [HR 20202273 refers]. The Orders would otherwise require their attendants to self-isolate for at least 48 hours on return to New Zealand and remain in self-isolation until they returned a negative COVID-19 test. This exemption did not cover other accredited aeromedical service providers who operate similarly to NZAAS. It is due to expire on 30 June 2021.
3. In addition, an upcoming change to the Air Border Order will exclude aircrew on charter and private flight operations from the definition of New Zealand-domiciled aircrew. Unless exempt, this will mean that New Zealand-domiciled aircrew on air ambulance flights will be subject to 14-days managed MIQ on return to New Zealand.
4. Two class-based exemptions are proposed for New Zealand-domiciled air ambulance aircrew and medical attendants. The first is for those who remain airside, the second is for those who travel to lower-risk destinations and meet qualifying criteria (which are like the criteria for quarantine-free travel (QFT)). Both groups will need to comply with the Key Safety Standards (the Standards) and a suitably qualified health practitioner must be satisfied that they are a low risk upon their return to New Zealand.

5. We recommend those who do not meet the proposed exemption criteria are managed similarly to 'relevant workers' under the Isolation and Quarantine Order. Following a similar approach, it is proposed that they be:
  - a. exempted from the requirement to hold a confirmed allocation for MIQ and a pre-departure test
  - b. required to self-isolate upon return to New Zealand, be tested within 48 hours of their return and remain in isolation until they return a negative test
  - c. directed to MIQ if they are not low risk on return, and a medical officer of health can approve their departure where they meet low-risk criteria.
6. To effectively implement the proposal, we also recommend that:
  - a. air ambulances are exempted from the requirement to land at security designated aerodromes as this will enable them to land at airports best located to support patient transfers to hospital or the return of their crew to base
  - b. relevant workers (including both medical attendants and police escorts) are required to notify the Ministry of Health (the Ministry) of the date, time and location of their intended return to New Zealand.
7. These additional proposals will support the Ministry working with these workers to understand the risks associated with their travel. It will help ensure any higher-risk escorts are appropriately managed.
8. If agreed, we would like to include the proposed exemptions in the Quarter 2 (Q2) Air Border omnibus amendments. However, these will not be in effect when the current NZAAS expires so we recommend that the existing exemption is extended to all accredited aeromedical services who can demonstrate compliance with the Key Safety Standards, to bridge any resulting gap for these services in Australia and the Pacific.
9. We propose including flights to Australia and Nauru in the exemption, and to exclude Fiji (because currently Fiji has a high incidence of COVID-19). Excluding Fiji will cease the exemption currently granted to medical attendants on commercial flights, but air ambulance flights will still be able to operate. An exemption notice is at Appendix One for your signature.

## Recommendations

We recommend you:

- a) **Agree** to grant two class-based exemptions from managed isolation and quarantine for New Zealand-domiciled air ambulance aircrew and medical attendants who remain airside or travel to lower-risk destinations where:
  - i. they meet the Key Safety Standards
  - ii. a suitably qualified health practitioner is satisfied that they are low risk **Yes/No**
- b) **Agree** that aircrew and medical attendants who travel to lower-risk destinations must meet the following, additional qualifying criteria to be exempt: **Yes/No**
  - i. have not been in any other country, other than a quarantine free travel place or a lower-risk destination, in the past 14 days

- ii. have not been in any COVID-19 locations of interest in the past 14 days
  - iii. are not a close or casual contact of any COVID-19 cases anywhere
  - iv. did not end any required COVID-19 isolation or quarantine early
  - v. have not had a positive COVID-19 test in the past 14 days, or are not infectious
  - vi. are not awaiting the results of a COVID-19 test
- c) **Agree** that New Zealand-domiciled air ambulance aircrew and medical attendants who do not meet the criteria for the exemptions, are managed similarly to 'relevant workers' and are therefore: Yes/No
- vii. exempted from the requirement to hold a confirmed allocation for managed isolation and quarantine, and a pre-departure test
  - viii. required to self-isolate upon return to New Zealand, be tested within 48 hours of their return and remain in isolation until they return a negative test
  - ix. directed to managed isolation or quarantine if they are not low risk, and a medical officer of health can approve their departure once they meet low-risk criteria
- d) **Agree** that air ambulances are exempted from the requirement to land at security designated aerodromes Yes/No
- e) **Agree** that medical attendants and police escorts are required to notify the Ministry of Health of the date, time and location of their intended return to New Zealand Yes/No
- f) **Note** that if agreed, officials will work with Parliamentary Counsel on the required amendments to the Covid-19 Public Health Response (Air Border) Order 2020 and Covid-19 Public Health Response (Isolation and Quarantine) Order 2020 at the next available opportunity **Note**
- g) **Agree** to extend the existing exemption for the New Zealand Air Ambulance Service, with the following changes: Yes/No
- i. to apply to all accredited aeromedical services who have had their compliance with the Key Safety Standards assessed
  - ii. to include Australia and Nauru in the list of countries in the exemption, and to exclude Fiji
- h) **Sign** the exemption notice at Appendix One. Yes/no



Dr Ashley Bloomfield

**Te Tumu Whakarae mō te Hauora**

Director-General of Health

Date: 28/06/2021



Hon Chris Hipkins

**Minister for COVID-19 Response**

Date: 29/6/2021

# Enabling a proportionate public health response to New Zealand-domiciled air ambulance aircrew and medical attendants

## Background

10. There are around six – 10 medical evacuations to New Zealand each month, with approximately one third of these using air ambulance services. The original Air Border Order exempted medical attendants from MIQ requirements. To strengthen the public health and regulatory framework for managing the risks of COVID-19 transmission, this policy changed in October 2020 and medical attendants are currently required to self-isolate and best tested upon return to New Zealand, unless exempt.
11. Following the October 2020 change, the NZAAS advised the Ministry that if their medical attendants were required to comply with clause 8(3) of the Air Border Order and the Isolation and Quarantine Order they would not be able to continue to operate effectively [HR 20202273 refers]. On 18 December 2020, you granted the NZAAS a conditional exemption to clause 8(3) which is due to expire on 30 June 2021. This exemption did not cover other accredited aeromedical providers who operate similarly to NZAAS (such as AeroMed Pacific).
12. In addition, an upcoming change to the Air Border Order will exclude New Zealand-domiciled aircrew on charter and private flight operations from the definition of New Zealand-domiciled aircrew. This will mean New Zealand-domiciled aircrew on air ambulance flights – which are charter flights - will be subject to 14-days managed isolation or quarantine unless exempt.
13. The NZAAS exemption expiring and upcoming changes to the Air Border Order, will have operational implications for all accredited aeromedical providers. Air ambulance and medical attendant service gaps could put the wellbeing of New Zealanders and permanent residents, and our Pacific neighbours, at risk.

## Proposed approach to enabling a proportionate public health response

14. The primary objective of the Air Border Order and the Isolation and Quarantine Order is to prevent, and limit the risk of, an outbreak or spread of COVID-19 by imposing certain requirements in relation to persons arriving in New Zealand. The proposals below are consistent with that objective. We are looking to ensure that:
  - i. the public health risks of New Zealand-domiciled air ambulance and medical attendants returning to New Zealand are effectively managed
  - ii. air ambulance and medical attendant services can continue supporting the wellbeing of our citizens and residents, and Pacific communities.

## Proposals for NZ-domiciled aircrew and attendants who remain airside

15. It is proposed that a class-based exemption in the Air Border Order is established for New Zealand-domiciled air ambulance aircrew and medical attendants who **remain airside** overseas where:
  - i. they meet the Standards
  - ii. a suitably qualified health practitioner is satisfied that they are a low risk.
16. This proposal would maintain the status quo. It would see these air ambulance aircrew and medical attendants treated similarly to aircrew on regularly scheduled international air services. These people would not be subject to MIQ unless there was a concern about their level of risk on return to New Zealand.
17. Airside flights are generally considered to be low risk given the requirement to comply with the Standards in-flight. While airside crew do not enter communal areas in an airport or the general community in the country in which they land. The Standards include requirements related to personal protective equipment (PPE) and physical distancing where possible. They are a proven risk-mitigation. Remaining airside limits the spaces and people with which crew have contact.

## Proposals for NZ-domiciled aircrew and attendants on flights to lower-risk destinations

18. It is proposed that a class-based exemption in the Air Border Order is established for New Zealand-domiciled air ambulance aircrew and medical attendants who travel to **lower-risk destinations** and:
  - i. meet the Standards
  - ii. a suitably qualified health practitioner is satisfied that they are a low risk
  - iii. have not been in any other country, other than a QFT place or a lower-risk destination, in the past 14 days
  - iv. have not been in any COVID-19 locations of interest in the past 14 days
  - v. are not a close or casual contact of any COVID-19 cases anywhere
  - vi. did not end any required COVID-19 isolation or quarantine early
  - vii. have not had a positive COVID-19 test in the past 14 days, or are not infectious
  - viii. are not awaiting the results of a COVID-19 test.
19. This proposed exemption would use similar pre-requisites to those for QFT in schedule 2 of the Air Border Order. The pre-requisites are also like those in the current NZAAS exemption, but the exemption would apply to all accredited aeromedical providers and medical attendants that met the required conditions.
20. The prerequisites would limit where exempted flights could travel to, enabling travel to Australia and within the Pacific region. The additional conditions are considered appropriate to ensuring these medical transfers would be low risk. Aircrew and medical attendants would not be able to access the exemption if they had been at a COVID-19 location of interest or a close or causal contact of a COVID-19 case.

## Proposals for other air ambulance and medical attendant flights

21. It is proposed that New Zealand-domiciled air ambulance aircrew and medical attendants who do not meet the criteria for the proposed Air Border Order exemptions, are managed similarly to 'relevant workers' under the Isolation and Quarantine Order are now. Following a similar approach, it is proposed that they be:
  - i. exempted from the requirement to hold a confirmed allocation for MIQ and a pre-departure test
  - ii. required to self-isolate upon return to New Zealand, be tested within 48 hours of their return and remain in isolation until they return a negative test
  - iii. directed to MIQ if they are not low risk, and a medical officer of health can approve their departure where they meet low-risk criteria.
22. This proposal would set a minimum standard of self-isolation and a negative COVID-19 test for aircrew and medical attendants that do not meet the low-risk exemption criteria. It will enable a proportionate response if there was otherwise a concern about the risk presented by these people.
23. The proposal would result in a change to the obligations for NZAAS and other air ambulance services with New Zealand-domiciled aircrew flying outside Australia and the Pacific region; on flights over six hours or with a layover outside the region. Most air ambulance services operate short haul (less than six hour) flights due to the craft used, so the changes should not have a significant operational impact. Regardless, we consider this change proportionate to the risk these flights represent and note that air ambulance providers can still apply for an exemption if it is considered necessary or appropriate in the circumstances of the case.

## Additional proposals to support effective implementation of the proposed exemptions

24. To ensure these proposals can be effectively implemented, it is also proposed that:
  - i. air ambulances are exempted from the requirement to land at security designated aerodromes. This will enable them to land at airports best located to support patient transfers to hospital or the return of their crew to base (relying on the standard provision for notifying and processing ad hoc flights with Customs).
  - ii. relevant workers (which include medical attendants and police escorts) are required to notify the Ministry of the date, time and location of their intended return to New Zealand. This will support the Ministry working with these workers to understand the risks associated with their travel and ensure any higher-risk flights are appropriately managed.
25. We are aware of several air ambulance flights that have landed outside a security designated aerodrome in the past year. The numbers are not significant and can be appropriately managed using existing provisions and procedures, however, these flights are currently operating inconsistently with the Air Border Order.

## Equity

26. The Ministry's equity definition is:
- In Aotearoa New Zealand, people have differences in health that are not only avoidable but unfair and unjust. Equity recognises different people with different levels of advantage require different approaches and resources to get equitable health outcomes.*
27. There are no equity implications associated in this paper, which is focussed on addressing the risk of air ambulance and medical attendant services.

## Justification for making the proposed amendments

### Public health justifications

28. COVID-19 is a highly infectious disease which may be spread by people who are not showing symptoms. The risk presented by the virus provides the justification for taking appropriate measures to identify potential cases of COVID-19 and reduce the risk of any transmission in New Zealand and overseas.
29. You are receiving ongoing advice about the risks associated with COVID-19 transmission in New Zealand. In accordance with section 9(2) of the COVID-19 Public Health Response Act 2020 (the Act), you may have regard to that advice without it being repeated in this briefing. However, any specific and relevant public health justification(s) for the proposed amendments are set out in this briefing.

### Consistency with the New Zealand Bill of Rights Act 1990

30. Under sections 9 and 11 of the Act, the power to make an amendment to an Order must be exercised consistently with New Zealand Bill of Rights Act 1990 (NZBORA). Officials have had regard to this obligation. In undertaking our NZBORA assessment, we have also had regard to what the Orders and the proposed amendments to them are trying to achieve.
31. The Orders are part of a bespoke legal framework for managing the public health risks posed by COVID-19. They support the Government's Elimination Strategy and have the purpose of preventing COVID-19 reaching and being transmitted in our community. They are essential levers to managing the public health risk of COVID-19.
32. Our advice on the proposals to change the status of New Zealand-domiciled aircrew on charter and private flight was set out in our report to you of 11 May 2021 [HR 20210235 refers]. This advice was a point of clarification in the Air Border Order, considered necessary to address the risks associated with the ad hoc nature of these flights. They are not regularly scheduled and the Ministry has not ascertained the operators' compliance with the Standards.
33. The primary justification for the change for charter and private flight operators is that COVID-19 is a highly contagious and unpredictable virus that has the potential for asymptomatic transmission. Without isolation, quarantine, and testing, we cannot know if a person is infected with the virus and decide the risk they present to our community. This public health rationale is also at the foundation of this advice.

34. The NZBORA rights that are engaged by these proposals are set out below:
- a. the right to refuse medical treatment
  - b. freedom of expression
  - c. freedom of peaceful assembly
  - d. freedom of association
  - e. freedom of movement
  - f. liberty of the person (against arbitrary detention)
  - g. respect and dignity in detention.
35. The proposal in this paper will lessen the impact on the rights of air ambulance and medical attendants who remain airside or fly to lower-risk destinations; they will only be subject to MIQ and testing if they return to New Zealand and are determined to be at risk of transmitting COVID-19. In other cases, it is proposed these people will be subject to self-isolation until they return a negative COVID-19 test. These limitations on their rights are proportionate considering the public health risk. The proposal provides the opportunity to lessen the impact on the rights of these affected people, as they will not be subject to MIQ.

### **Consultation and engagement on these proposals**

36. Officials have consulted with the Department of Prime Minister and Cabinet, Treasury, Ministry of Foreign Affairs and Trade, Ministry of Justice, New Zealand Customs Services, the Ministry of Business, Innovation and Employment, and the Ministry of Transport on these proposals. Officials have also engaged with Board of Airline Representatives New Zealand and the two aeromedical service providers. There is broad support for the proposals, however NZAAS would like to secure the same treatment as Air New Zealand New Zealand-domiciled aircrew.

### **Next steps and the need to extend the current NZAAS exemption**

37. If you agree to the proposals in this paper, amendments will be made to the Air Border Order at the next available opportunity. Depending on the timing and capacity of the Parliamentary Counsel Office (PCO), this may be part of the current Q2 Air Border Order omnibus amendments. This is the preferred option as the Q2 omnibus amendments will change the definition of New Zealand-domiciled aircrew to exclude charter and private flight crew, affecting air ambulance crew. However, there will also be a further opportunity later in the year to amend the Air Border Order.
38. As the Q2 omnibus amendments will not be in effect when the current NZAAS expires on 30 June 2021, it is proposed that the existing exemption is extended:
- a. to all New Zealand-based air accredited aeromedical services who have had their compliance with the Standards assessed
  - b. to include Australia and Nauru, and exclude Fiji, as at this time Fiji has a high incidence of COVID-19 meaning travel to Fiji comes with a greater risk
  - c. without an end-date.

39. Extending the exemption in this way will bridge any resulting gap – for Australia and the Pacific - between the change in definition of New Zealand-domiciled crew and the proposal in this paper coming into effect. Air ambulance flights outside the lower-risk destinations can be considered, if required, for an exemption. The reason that the current NZAAS exemption was time-bound in the first instance is that changes to the Air Border Order, such as those proposed in this paper, were expected to be in place before it expired. This work was delayed due to competing priorities.
40. The Ministry will work with NZAAS and the other air ambulance and medical attendant service providers to inform them of the proposed changes to the Air Border Order and the exemption. Relevant advice for these service providers will be updated. The Ministry has a long-standing relationship with NZAAS, supporting the risk assessment of medical attendants' travel overseas. The changes will also be communicated to airlines so that they are aware of the obligations on medical attendants, but also their exemption from having to hold a confirmed allocation.

**ENDS**

PROACTIVELY RELEASED

## Exemption of Persons From Clause 8(3) of the COVID-19 Public Health Response (Air Border) Order (No 2) 2020

Pursuant to clause 26 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:

- all medical attendants and specified aircrew working in accredited aeromedical services;
- who have travelled to, or from, one of the following places while assisting, as a medical attendant or air crew member, with a medical air transfer to, or from, New Zealand:
  - Australia
  - Nauru
  - Cook Islands
  - Samoa
  - Niue
  - Tonga
  - Vanuatu
  - New Caledonia
  - American Samoa
  - Tahiti
  - Tokelau
  - Tuvalu
  - Kiribati

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

This exemption does not apply 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 arriving in New Zealand by air and while anywhere outside New Zealand except for a QFT place, the aircrew member or medical attendant has failed to meet 1 or more of the key safety standards or that there is a high risk that, during that absence from New Zealand, the aircrew member or medical attendant has been exposed to COVID-19.

The exemption will begin at 11.59pm on 30 June 2021.

Dated at Wellington this 29<sup>th</sup> day of June 2021.

HON CHRIS HIPKINS, Minister for COVID-19 Response.

