

# Briefing

## Orders amendments and Exemption Notice to expand one-way quarantine-free travel with the Pacific

**Date due to MO:** 1 November 2021      **Action required by:** 3 November 2021

**Security level:** IN CONFIDENCE      **Health Report number:** 20212362

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

**Copy to:** Rt Hon Jacinda Ardern, Prime Minister  
 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
<b>Dr Ashley Bloomfield</b>	Te Tumu Whakarāe mō te Hauora Director-General of Health	s 9(2)(a)
<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 Withdrawn |  |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:

# Orders amendments and Exemption Notice to expand one-way quarantine-free travel with the Pacific

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**Security level:** IN CONFIDENCE                      **Date:** 1 November

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

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## Purpose of report

1. This report seeks your agreement to:
  - a. an Exemption Notice to support Recognised Seasonal Employer (RSE) workers to travel to New Zealand with one dose of a COVID-19 vaccine
  - b. policy for carriers and aircrew flying quarantine-free travel (QFT) flights as part of the expanded one-way QFT with the Pacific
  - c. policy to support medical transfers and emergency flights carrying unvaccinated non-citizens
  - d. consult on and sign an amendment to the COVID-19 Public Health Response (Air Border) Order 2021 (the Air Border Order) to give effect to expanded one-way QFT.

## Summary

### Exemption Notice to support RSE workers to travel to New Zealand

2. From 1 November 2021, all non-New Zealand citizens travelling to New Zealand must be fully vaccinated. However, Cabinet has decided that workers from Vanuatu, Tonga, Samoa and Solomon Islands may travel to New Zealand with one dose of a COVID-19 vaccine approved in their country until 31 December 2021 [CAB-21-MIN-0403].
3. Cabinet's decision requires an Exemption Notice to the Air Border Order to be signed by you by 3.00pm Wednesday 3 November 2021. This will allow RSE workers from the Solomon Islands to enter on a charter flight on Thursday 4 November 2021.
4. The *COVID-19 Public Health Response (Exemption from Vaccination Requirements for RSE Workers) Notice 2021* (the Exemption Notice) is at [Attachment A](#) for your signature. You do not need to consult on the notice.

### Amendments to Air Border Order to support expanded one-way QFT with the Pacific

5. Cabinet has made a range of decisions to support expanded one-way QFT with Vanuatu Samoa, Tonga and Tokelau [CAB-21-MIN-0276, CBC-21-MIN-0089, CAB-21-MIN-0276]. Before these amendments are made, we would like to seek your agreement to some additional policy matters to:
  - a. enable specified air ambulances to be named as QFT carriers

- b. enable medical transfer and emergency flights to carry unvaccinated non-citizens
- c. mitigate the public health risk of aircrew flying QFT and non-QFT flights.

*Specified air ambulances to be named as QFT carriers*

- 6. Cabinet’s decisions for expanded one-way QFT will result in Air New Zealand and Air Vanuatu being QFT carriers. Air Vanuatu will only be a QFT carrier for flights from Vanuatu.
- 7. It is proposed that New Zealand Air Ambulance Service and GCH Aviation are also listed as QFT carriers. This will allow persons travelling to New Zealand as part of a medical transfer on these carriers to enter New Zealand without managed isolation or quarantine where they meet the QFT travel conditions.

*Medical transfer and emergency flights carrying unvaccinated non-New Zealand citizens*

- 8. On 1 November 2021, an amendment to the Air Border Order came into effect that will require all non-New Zealand citizens travelling to New Zealand (with a few exceptions) to be vaccinated.
- 9. Officials recommend that all medical transfers, and anyone accompanying them, are exempted from the vaccination requirement (regardless of where they are flying from or their flight type). We also propose the exemption applies to flights turned back in an emergency.

*Aircrew flying as part of expanded one-way QFT*

- 10. Decisions for aircrew flying as part of the expanded one-way QFT were not made by Cabinet. As a result, we are seeking your agreement to manage the risk of these aircrew through vaccination and testing.
- 11. The public health risk requirements proposed below will work alongside the infection control protocols for crew and passengers implemented by the carriers. Our proposals for aircrew are set out in the table below.

<b>Proposal</b>	<b>Rationale</b>
Remove the exemption from the COVID-19 Public Health Response (Vaccination) Order 2020 (the Vaccination Order) for QFT flights for New Zealand-domiciled aircrew.	There are minor gaps in the Vaccination Order that mean New Zealand citizen cabin crew on QFT flights do not have to be vaccinated. It is not anticipated that many, if any, cabin crew make use of this gap as there are so few QFT flights, but we recommend this gap is closed. Vaccination is our first line of defence against aircrew contracting and transmitting COVID-19.  International aircrew will be captured by the recent requirement that all non-citizens travelling to New Zealand are vaccinated.
Remove the exemption from the COVID-19 Public Health Response (Requesting Testing) Order 2020 (the Required Testing Order) for QFT flights	There are also minor gaps in the Required Testing Order that mean New Zealand-domiciled cabin crew on QFT flights are not subject to the testing requirements. Closing the gap is essential to our proposal that these aircrew are not required to standdown between QFT

Proposal	Rationale
<p>for New-Zealand domiciled aircrew.</p> <p>Put in place a seven-day pre-departure test (PDT) for the international aircrew flying both QFT and non-QFT flights consistent with Gazette notice 2021-go1593<sup>1</sup>.</p>	<p>flights and other flights (noting that on other flights, these crew must comply with the Key Safety Standards which are an additional layer of protection). It will enable the early identification of COVID-19 if it were to arise in a crew member.</p> <p>Currently, aircrew from most Pacific destinations are exempt from the PDT requirement in Gazette notice 201-go1953 due to the operation of another Gazette notice 2021-go3772<sup>2</sup>. Testing those who fly both QFT and non-QFT flights will mitigate the risk from these crew.</p>

*Giving effect to Cabinet and your decisions for expanded one-way QFT with the Pacific*

12. To give effect to Cabinet's decisions, and the policy proposals in this paper, amendments are required to the Air Border Order, which will make consequential amendments to the Vaccination Order and the Required Testing Order.
13. A draft *COVID-19 Public Health Response (Air Border) Order (No2) Amendment Order (No12) 2021* (the Amendment Order) is at Appendix B for you to consult with the Prime Minister and your Ministerial colleagues. You must undertake consultation before signing the order.
14. The Amendment Order will:
  - a. add Vanuatu, Samoa, Tonga and Tokelau as QFT places enabling travellers who meet the pre-requisites to come to New Zealand without managed isolation and quarantine (MIQ)
  - b. add Air New Zealand, New Zealand Air Ambulance Service and GCH Aviation as QFT carriers, and Air Vanuatu as a QFT carrier for flights from Vanuatu
  - c. enable non-New Zealand citizen medical transferees and those accompanying them to arrive in New Zealand even where they are not vaccinated
  - d. enable flights turned back to New Zealand in an emergency to carry un-vaccinated non-New Zealand citizens
  - e. implement the proposed vaccination and testing regime for New Zealand-domiciled aircrew.
15. The Amendment Order needs to be signed by you 3.00pm by Friday 5 November 2021, in order to enable expanded one-way QFT with the Pacific to start on Monday 8 November 2021. Once signed, the Amendment Order will be made and notified to key stakeholders, and in the New Zealand Gazette.
16. The proposed testing regime for international aircrew flying QFT and non-QFT flights will be implemented in an Exemption Notice signed-off by the Director General of Health.

<sup>1</sup> <https://gazette.govt.nz/notice/id/2021-go1593>

<sup>2</sup> <https://www.gazette.govt.nz/notice/id/2021-go3772>

## Recommendations

We recommend you:

### Exemption Notice to support RSE workers to travel to New Zealand

- a) **Agree** to sign the *COVID-19 Public Health Response (Exemption from Vaccination Requirements for RSE Workers) Notice 2021* at Attachment A that will enable Recognised Seasonal Employer workers to continue to enter New Zealand with at least one dose of a COVID-19 vaccine, as previously agreed, until 31 December 2021 by 3.00pm Wednesday 3 November 2021 **Yes/No**

### Amendments to Air Border Order to support expanded one-way QFT with the Pacific

- b) **Agree** that, along with Air New Zealand and Air Vanuatu, New Zealand Air Ambulance Service and GCH Aviation are listed as quarantine-free travel (QFT) carriers **Yes/No**
- c) **Agree** that exemption from the COVID-19 Public Health Response (Vaccination) Order 2020 for QFT flights is removed for New Zealand-domiciled aircrew **Yes/No**
- d) **Agree** exemption from the COVID-19 Public Health Response (Required Testing) Order 2020 for QFT flights is removed for New-Zealand domiciled aircrew and these are the only testing requirements they are required to meet **Yes/No**
- e) **Agree** that a seven-day pre-departure test is put in place for the international aircrew travelling on QFT and non-QFT flights **Yes/No**
- f) **Agree** that non-New Zealand citizens travelling to New Zealand as part of a medical transfer on air ambulances and other carriers, including those transiting New Zealand and those turned back to New Zealand in an emergency, are exempt from the requirement to be vaccinated **Yes/No**
- g) **Agree** to consult with the Prime Minister and your Ministerial colleagues on this paper and the attached *COVID-19 Public Health Response (Air Border) Order (No2) Amendment Order (No12) 2021* (at Appendix B) **Yes/No**
- h) **Agree** sign the *COVID-19 Public Health Response (Air Border) Order (No2) Amendment Order (No12) 2021* at Appendix B by 3.00pm by Friday 5 November 2021 that will amend the: **Yes/No**
- i. add Vanuatu, Samoa, Tonga and Tokelau as QFT places enabling travellers who meet the pre-requisites to come to New Zealand without managed isolation and quarantine (MIQ)

- ii. add Air New Zealand, New Zealand Air Ambulance Service and GCH Aviation as QFT carriers, and Air Vanuatu as a QFT carrier for flights from Vanuatu
  - iii. enable non-New Zealand citizen medical transferees and those accompanying them to arrive in New Zealand even where they are not vaccinated
  - iv. flights turned back to New Zealand in an emergency to carry unvaccinated non-New Zealand citizens
  - v. implement the proposed vaccination and testing regime for New Zealand-domiciled aircrew
- i) **Note** that I will publish an amended Exemption Notice to put in place COVID-19 testing requirements for international aircrew on QFT flights **Noted**
- j) **Note** that the proposed amendments are consistent with the purpose of the COVID-19 Public Health Response Act 2020 **Noted**
- k) **Note** that the proposed amendments consider my public health advice to mitigate the risk of individuals infected with COVID-19 entering New Zealand and (if infected) transmitting the infection once here **Noted**
- l) **Note** that, if agreed, the amendments will be made and notified, including: **Noted**
- vi. in the New Zealand Gazette
  - vii. to relevant stakeholders.



Dr Ashley Bloomfield  
**Te Tumu Whakarae mō te Hauora**  
Director-General of Health  
Date: 02112021



Hon Chris Hipkins  
**Minister for COVID-19 Response**

Date: 3/11/2021

# Orders amendments and Exemption Notice to expand one-way quarantine-free travel with the Pacific

## Background

17. On 12 July 2021, Cabinet instructed officials to start discussions with Vanuatu, Tonga and Samoa to enable one-way QFT with at least one of the three countries by 1 September 2021 [CAB-21-MIN-0276 and HR20212366 refer]. Officials began work in response to this instruction.
18. On 1 September 2021, Cabinet agreed to a staged approach to one-way QFT beginning with a trial of recognised seasonal employer (RSE) workers only from Samoa, Tonga and Vanuatu, with a review one month after commencement to enable consideration of its expansion [CBC-21-MIN-0089 and HR 20212133 refer].
19. On 28 October 2021, Ministers agreed to expand one-way QFT from RSE workers to other eligible travellers from Samoa, Tokelau, Tonga and Vanuatu from 11.59pm on Sunday 7 November 2021. The approach to be taken was as agreed in principle by Cabinet in July 2021, being to enable travellers who have the right to reside permanently in New Zealand (including first time resident visa holders and Australians), and people covered by border exceptions [CAB-21-MIN-0276].

## Exemption Notice to support RSE workers to travel to New Zealand

20. From 1 November 2021, all non-New Zealand citizens travelling to New Zealand must be fully vaccinated. However, Cabinet made decisions to allow RSE workers from Vanuatu, Tonga, Samoa and the Solomon Islands to travel with one dose of a COVID-19 vaccine approved in their country until 31 December 2021 [CAB-21-MIN-0403]. Cabinet's decision requires an Exemption Notice to the Air Border Order.
21. The Exemption Notice will allow RSE workers from the Solomon Islands to enter New Zealand on a charter flight on Thursday 4 November 2021. The workers arriving from the Solomon Islands:
  - a. will be required to have at least one dose of a COVID-19 vaccine approved in their country prior to departure
  - b. will be eligible to receive their second dose of a vaccination if not fully vaccinated, while in New Zealand in accordance with public health advice
  - c. will be required to enter a managed isolation and quarantine facility on arrival in New Zealand.

## Amendments to Air Border Order

22. In addition to the Cabinet decisions already made for expanded one-way QFT with the Pacific, we would like to seek further policy decisions for carriers and aircrew to:
  - a. enable specified air ambulances to be named as QFT carriers

- b. enable medical transfer and emergency flights to carry unvaccinated non-citizens
- c. mitigate the public health risk of aircrew flying QFT and non-QFT flights.

### **Specified air ambulances to be named as QFT carriers**

- 23. It is proposed that air ambulances operated by New Zealand Air Ambulance Service and GCH Aviation can undertake QFT flights. This proposal will enable those travelling to New Zealand by these air ambulances as part of a medical referral, to enter without managed isolation and quarantine where they meet the QFT pre-requisites.
- 24. This approach will serve to reduce the stress on medical transferees and their support people when they are being medically transferred. It is also anticipated that the volume of medical transfers may be steady as the one-way QFT pathway with the Pacific will make it easier for these flights to take place. Countries may look to clear any backlog of medical transfers that have been considered non-urgent now.

### **Medical transfer and emergency flights to carry unvaccinated non-New Zealand citizens**

- 25. On 1 November 2021, an amendment to the Air Border Order will come into effect that will require all non-New Zealand citizens travelling to New Zealand (with a few exceptions) to be vaccinated. This requirement will capture those travelling to New Zealand as part of medical referral flights in order to receive medical treatment, and those on flights turned back in an emergency.
- 26. It is proposed that all medical transfers and anyone accompanying them are exempted from the vaccination requirement (regardless of where they are flying from and their flight type). We propose the exemption applies to air ambulance flights, flights on any carrier and to those who may be transiting New Zealand to receive treatment elsewhere (such as Australia), along with flights turned back in an emergency.
- 27. Given that many medical transfers are un-planned and urgent, it would be challenging to seek an individualised ministerial exemption in a short timeframe to allow unvaccinated non-citizens to travel to receive care. Officials also consider that, as you would be unlikely to decline an exemption request in these circumstances, a standing exemption in the Air Border Order is a more appropriate and durable solution.

### **Aircrew flying QFT and non-QFT flights**

- 28. The Ministry of Health (the Ministry) has been undertaking a review of aircrew settings that has included developing a framework for low-risk routes that include current and planned one-way Pacific QFT routes. The review will not be finalised until the end of 2021 and we are hoping to brief you on the settings generally later in November.
- 29. Our review has drawn from the lessons-learned from trans-Tasman QFT and the need for us to put in place public health risk requirements for aircrew that will endure over the longer term. The arrangements also need to recognise the reality of the air sector.
- 30. As one-way QFT expands it is not practical or sustainable to ring-fence flight types, and doing so does not acknowledge the range of public health risk requirements that can mitigate in-flight transmission of COVID-19. Ring-fencing was problematic for trans-Tasman QFT and will not work as a feature of low-risk routes and one-way Pacific QFT.
- 31. The Office of the Director of Public Health advise it is possible to manage the risk of aircrew flying different flight types through aircrew vaccination and testing requirements,

noting that in addition to this, all carriers also implement infection control protocols for crew and passengers consistent with airline industry standards, and health and safety obligations. They actively work to protect crew and passengers in-flight. With high vaccination rates in the Australia-Pacific region, both aircrew and travellers are also further protected.

32. With this in mind, the following proposals are made that will allow aircrew to operate QFT flights outside the managed isolation and quarantine regime.

<b>Proposal</b>	<b>Rationale</b>
<p>Remove the exemption from the Vaccination Order for QFT flights for New Zealand-domiciled aircrew.</p>	<p>There are minor gaps in the Vaccination Order that mean New Zealand citizen cabin crew on QFT flights do not have to be vaccinated. It is not anticipated that many, if any, cabin crew make use of this gap as there are so few QFT flights, but we recommend this gap is closed. Vaccination is our first line of defence against aircrew contracting and transmitting COVID-19.</p> <p>Of note, further work will be done this year so that another minor gap, for New Zealand citizen pilots who do not undertake a layover, is also closed.</p> <p>International aircrew will be captured by the recent requirement that all non-citizens travelling to New Zealand are vaccinated.</p>
<p>Remove the exemption from the Requesting Testing Order for QFT flights for New Zealand domiciled aircrew.</p> <p>Put in place a seven-day PDT for the international aircrew flying both QFT and non-QFT flights consistent with Gazette notice 2021-go1593<sup>3</sup>.</p>	<p>There are also minor gaps in the Required Testing Order that mean New Zealand-domiciled cabin crew on QFT flights are not subject to the testing requirements. It is not anticipated that many, if any, cabin crew make use of this gap as – again - there are so few QFT flights, but we also recommend this gap is closed. Closing the gap is essential to our proposal that these aircrew are not required to standdown between QFT flights and other flights (noting that on other flights, these crew must comply with the Key Safety Standards which are an additional layer of protection). It will enable the early identification of COVID-19 if it were to arise in a crew member.</p> <p>As with the Vaccination Order, further work will be done this year so that another gap, for New Zealand-domiciled pilots who do not undertake a layover, is also closed.</p> <p>Currently, aircrew from most Pacific destinations are exempt from the PDT requirement in Gazette notice 201-go1953 due to the operation of another Gazette notice</p>

<sup>3</sup> <https://gazette.govt.nz/notice/id/2021-go1593>

Proposal	Rationale
	2021-go3772 <sup>4</sup> . This has not been a significant issue in the past as we have not had many international aircrew from the Pacific flying QFT flights but we recommend it is now changed. Air Vanuatu has flown the two recent RSE flights from Vanuatu.

## Next steps

33. **To give effect to Cabinet's decisions for RSE workers requires an Exemption Notice to the Air Border Order to be signed by you by 3.00pm Wednesday 3 November 2021.** This will allow RSE workers from the Solomon Islands to enter on a charter flight on Thursday 4 November 2021.
34. The *COVID-19 Public Health Response (Exemption from Vaccination Requirements for RSE Workers) Notice 2021* is at [Attachment A](#) for your signature. You do not need to consult on the Exemption Notice.
35. **To give effect to Cabinet's decisions and the policy proposals in this paper for expanded one-way Pacific QFT, amendments are required to the Air Border Order which need to be signed by you 3.00pm by Friday 5 November 2021.** The Amendment Order will make consequential amendments to the Vaccination Order and the Required Testing Order.
36. A draft *COVID-19 Public Health Response (Air Border) Order (No2) Amendment Order (No12) 2021* is at [Appendix B](#). You are required to consult on the Amendment Order.

## Equity

37. The proposals for managing the public health risk of aircrew will create an equitable approach to vaccinations and testing. They are also important to setting a baseline for QFT crew. The proposals for accredited aeromedical services to be able to operate as QFT carriers will also create equity between carriers.

## Mechanism for making the proposed amendments to the legal framework

### Giving effect to the decisions made

38. The Exemption Notice will come into force at 11.59pm on 3 November 2021 in time for RSE workers arriving from the Solomon Islands on 4 November 2021. The exemption will permit RSE workers to arrive if they have at least one dose of vaccine. The other provisions associated with evidence production as set out in clause 7E of the Air Border Order will also apply to RSE workers.
39. The amendments to the Air Border Order are necessary to establish new QFT places and to designate Air Vanuatu as a QFT carrier. As the RSE workers pilot operated on the same

<sup>4</sup> <https://www.gazette.govt.nz/notice/id/2021-go3772>

conditions as QFT, the need to continue a standalone legislative regime for these workers is no longer necessary. Accordingly, the QFT flights will replace the RSE flights.

40. On 1 November 2021, clause 7E of the Air Border Order comes into force which will require all non-New Zealand citizens to be vaccinated prior to arriving in New Zealand unless they are an excepted person or otherwise exempted. This clause will also apply to RSE workers and so an exemption from this clause is needed.

### **Giving effect to the new decisions**

41. Our proposals for aircrew will require various changes to the Air Border Order. Changes are also required to the Vaccination Order and the Required Testing Order to remove references to QFT. All will require your agreement and approval.
42. Our proposals for medical transfers will require you to approve and agree an amendment to the Air Border Order. The Director General of Health can make the proposed changes to pre-departure testing requirements via a Gazette notice.

### **Relevant requirements prior to effecting legislative change**

43. If you agree, amendments will be made to COVID-19 Orders, which are issued under the COVID-19 Public Health Response Act 2020 (the Act). Under section 15(4) of the Act, to make the amendments, you must be satisfied that these things are appropriate to achieve the purpose of the Act and:
- a. have had regard to advice from the Director-General of Health 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
  - b. have had regard to any decision by the Government on the level of public health measures appropriate to respond to those risks and avoid, mitigate or remedy the effect of the outbreak or spread of COVID-19
  - c. be satisfied that the amendment does not limit, or is a justified limit on, the rights and freedoms in the New Zealand Bill of Rights Act 1990 (NZBORA)
  - d. have consulted on the draft amendments with the Prime Minister, the Minister of Justice and the Minister of Health, and any other Minister thought fit.
44. A new Exemption Notice will also be made. There is no requirement to consult on the policy for the Exemption Notice, but it is recommended that you do so if you wish, noting that this matter has already been discussed with your Ministerial colleagues.

### **Justification for making the proposed amendments**

#### **Director-General's advice and public health justifications**

45. 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 significant measures to identify potential cases of COVID-19 and reduce the risk of any spread in New Zealand and overseas.
46. You are receiving ongoing advice about the risks associated with COVID-19. In accordance with section 9(2) of 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 have been set out in this briefing for your consideration.

### **Consistency with Government decisions to respond to COVID-19**

47. The proposed amendments are consistent with the Government's work to prevent COVID-19 reaching, and being transmitted in, our community. They will enable us to better tailor our approach to emerging trends in the global COVID-19 landscape and support the Government's efforts to reconnect New Zealand to the world in a way that effectively manages risk.
48. The amendments will provide relief from certain public health risk requirements to lower risk travellers from QFT places. They will also establish a durable regime for aircrew which is important for their carriers and them.

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

49. The power to make an amendment to an Order under sections 9 and 11 of the Act must be exercised consistently with NZBORA. Officials have had regard to this obligation and our advice on the proposals that engage NZBORA rights is set out below.
50. Three of the proposals in this paper do materially change the status quo and engage NZBORA rights including the right to refuse medical treatment (vaccination) and the right to be free from unreasonable search and seizure (COVID-19). These are the requirements that all aircrew must be vaccinated and be COVID-19 tested. Along with the proposed PDT for international aircrew if they wish to enter New Zealand outside managed isolation and quarantine.
51. Currently, New Zealand citizen aircrew who are only travelling on QFT flights are not subject to the Vaccination Order. It is understood that crew are not making use of this gap in the order, but officials consider it justifiable that the gap is closed. Vaccination is now our first line of defence against the transmission of COVID-19.
52. New Zealand-domiciled aircrew who are only travelling on QFT flights are not subject to the Required Testing Order. Testing and the early identification of COVID-19 is essential to New Zealand being able to limit transmission of the virus. For our New Zealand-domiciled crew it is a key public health risk mitigation that will support carriers and crew to operate in a flexible way. COVID-19 surveillance testing can be justified on the basis that other controls such as PDT testing and standdown requirements are being removed.
53. The proposed PDT requirement for international aircrew is also designed to limit the risk of transmission of COVID-19 if they wish to enter New Zealand outside managed isolation and quarantine. It is justifiable as we do not have the ability to impose the Key Safety Standards on international aircrew, so we want to ensure that they have returned a negative test before entering the community.
54. In all cases where NZBORA rights have been engaged, we have considered if the impact on the affected individual could be lessened whilst still meeting public health needs, or if there were alternatives. At a fundamental level, the primary justification for all the recommended amendments is that COVID-19 is a highly contagious and unpredictable virus that has the potential for asymptomatic transmission. We consider the proposed measures are a justified limitation on the affected rights.

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

55. The decisions that will be given effect through this paper, and the accompanying amendments, have been developed with the Department of Prime Minister and Cabinet, the Ministries of Foreign Affairs and Trade and Transport, and consulted across a range of agencies lead by the Ministry of Foreign Affairs and Trade. There has also been engagement with the proposed QFT countries, and Air New Zealand and Air Vanuatu and this will continue as QFT commences.

ENDS.

PROACTIVELY RELEASED

## **COVID-19 Public Health Response (Exemption from Vaccination Requirements for RSE Workers) Notice 2021**

Pursuant to clause 26 of the COVID-19 Public Health Response (Air Border) Order (No 2) 2020, the Minister for COVID-19 Response gives the following notice after complying with that clause.

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### **Notice**

#### **1 Title**

This notice is the COVID-19 Public Health Response (Exemption from Vaccination Requirements for RSE Workers) Notice 2021.

#### **2 Commencement**

This notice comes into force at 11.59 pm on 3 November 2021.

### 3 Interpretation

In this notice, unless the context otherwise requires,—

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

**RSE** or **Recognised Seasonal Employer** has the meaning given by provision WH1.5 of the Recognised Seasonal Employer (RSE) Instructions, meaning those immigration instructions certified under section 22 of the Immigration Act 2009

**RSE place** means any of the following countries:

- (a) Samoa;
- (b) Solomon Islands;
- (c) Tonga;
- (d) Vanuatu

**RSE worker** means a person who—

- (a) is an employee of a Recognised Seasonal Employer; and
- (b) is ordinarily resident in an RSE place; and
- (c) holds an RSE limited visa granted—
  - (i) in accordance with provision WH1.15 of the Recognised Seasonal Employer (RSE) Instructions, and provision H5.30.20 of the COVID-19 Support Restricted Temporary Entry Instructions, meaning those immigration instructions certified under section 22 of the Immigration Act 2009; or
  - (ii) by special direction under that Act.

### 4 Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1 have effect according to their terms.

#### *Exemptions*

### 5 Exemption for RSE workers from vaccination requirements

- (1) This clause applies to an RSE worker who arrives in New Zealand by air from the RSE place in which they are ordinarily resident.
- (2) The RSE worker is exempt from the requirement to comply with clause 7E(2) of the Air Border Order.
- (3) The exemption is subject to the following conditions:
  - (a) the RSE worker has received at least 1 dose of a COVID-19 vaccine; and

- (b) the RSE worker, on request, produces evidence to an authorised person that is sufficient to satisfy them that the RSE worker has complied with paragraph (a).
- (4) To avoid doubt, this clause does not limit the ability of an RSE worker to be an excepted person or an exempt person.
- (5) In this clause,—  
**authorised person** means any of the persons listed in clause 7E(2)(b) of the Air Border Order  
**COVID-19 vaccine, excepted person, and exempt person** have the meanings given by clause 7E(5) of the Air Border Order.

**6 Exemption for air carriers from requirement to take steps to obtain evidence of compliance with vaccination requirements**

- (1) This clause applies to an air carrier if—
  - (a) the air carrier causes an aircraft to arrive in New Zealand; and
  - (b) the aircraft is carrying 1 or more RSE workers to whom clause 5 applies.
- (2) The air carrier is exempt from the requirement to comply with clause 7F of the Air Border Order in relation to the RSE workers.
- (3) The exemption is subject to the condition that the air carrier has taken reasonable steps to ensure that each of the RSE workers has evidence of compliance with clause 5(3)(a).

*Amendment to COVID-19 Public Health Response (Exemptions and Conditions for Recognised Seasonal Employer Flights) Notice 2021*

**7 Principal notice**

Clause 8 amends the COVID-19 Public Health Response (Exemptions and Conditions for Recognised Seasonal Employer Flights) Notice 2021.

**8 Clause 7 revoked (RSE worker must be vaccinated unless excluded)**

Revoke clause 7.

**Schedule 1**  
**Transitional, savings, and related provisions**

cl 4

**Part 1**  
**Provision relating to this notice as made**

- 1 Notices applies in relation to flights that are scheduled to arrive after 11.59 pm on 3 November 2021**
- (1) This notice applies to RSE workers and air carriers whose flights are scheduled to arrive in New Zealand after 11.59 pm on 3 November 2021 New Zealand time.
  - (2) If this notice applies to an RSE worker whose flight departs for New Zealand before 11.59 pm on 3 November 2021 New Zealand time, it applies to the RSE worker instead of clause 7 of the COVID-19 Public Health Response (Exemptions and Conditions for Recognised Seasonal Employer Flights) Notice 2021.

Dated at Wellington this **3rd** day of **November** 2021.



Minister for COVID-19 Response.

**Explanatory note**

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

This notice grants exemptions from clauses 7E and 7F of the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 (the **Air Border Order**), which relate to vaccination requirements for people arriving in New Zealand. This notice comes into force at 11.59 pm on 3 November 2021.

The exemption from clause 7E of the Air Border Order applies to employees of Recognised Seasonal Employers (**RSE workers**) who arrive in New Zealand from Samoa, the Solomon Islands, Tonga, or Vanuatu. The exemption is subject to the conditions that each RSE worker—

- has received at least 1 dose of a COVID-19 vaccine; and
- provides evidence of compliance with that requirement on request.

The exemption enables RSE workers to travel to New Zealand who would otherwise fail to comply with the vaccination requirement in clause 7E of the Air Border Order, either because they have not had all of the required doses of a COVID-19 vaccine or

because they did not complete their course of doses at least 14 days before beginning their journey to New Zealand.

The exemption from clause 7F of the Air Border Order applies to air carriers that carry RSE workers to New Zealand. It enables air carriers to take reasonable steps to ensure that RSE workers have evidence of compliance with the vaccine requirement under this notice, rather than evidence of compliance with the vaccine requirement under clause 7E of the Air Border Order (or evidence of being an excepted person or an exempt person under that clause).

Issued under the authority of the Legislation Act 2019.

Date of notification in *Gazette*:

This notice is administered by the Ministry of Health.

PROACTIVELY RELEASED