

Briefing

New Zealand Black Caps Cricket Team exemption from requirements of the Isolation and Quarantine Order

Date due to MO: 26 November 2021 **Action required by:** 1 December 2021

Security level: IN CONFIDENCE **Health Report number:** 20212548

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

Copy to: Hon Grant Robertson, Minister for Sport and Recreation

Contact for telephone discussion

Name	Position	Telephone
Dr Ashley Bloomfield	Director-General of Health	s 9(2)(a)
Bridget White	Deputy Chief Executive, COVID-19 Health System Response	s 9(2)(a)

Action for Private Secretaries

Return the signed report to the Ministry of Health.

Date dispatched to MO:

Forward the report to the Minister for Sport and Recreation.

New Zealand Black Caps Cricket Team exemption from requirements of the Isolation and Quarantine Order

Purpose of report

1. This report accompanies a proposed exemption notice from certain requirements of the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020 (the Order) to permit the New Zealand Black Caps cricket team (the team) to train in designated bubbles while in managed isolation. It provides a summary of the exemption and the rationale for our advice to grant this exemption.

Summary

2. This paper seeks your agreement to the necessary exemption for the New Zealand Black Caps cricket team, which is scheduled to arrive in New Zealand on 9 December 2021.
3. The team is made up of 28 players and support staff who are travelling from Mumbai, India via Dubai to Auckland, New Zealand where they will transfer to Christchurch for isolation. All team members will undertake seven days of managed isolation in Christchurch and around three days self-isolation in their respective local residences before playing in the Summer of Cricket series.
4. s 9(2)(a)
[Redacted]
[Redacted]
[Redacted]
5. To be able to play international-grade sport, the team requires an exemption from standard managed isolation and quarantine (MIQ) requirements so that team members can train in designated bubbles while in managed isolation. The exemption is not for any other purpose except training (i.e. socialising is not permitted under the exemption) and all other MIF requirements continue to apply to the team.
6. The proposed exemption would allow the team to train at a managed isolation facility (MIF) and an approved training venue (sports MIF) while in managed isolation under strict parameters, including:
 - a. all team members will be required to isolate individually upon arrival in New Zealand;
 - b. all team members will have COVID-19 tests on days 0/1 and 3; and
 - c. provided they return a negative day 3 test, and the medical officer of health is satisfied that they are unlikely to transmit COVID-19, team members will be permitted to train in **a full team bubble of 26 people.**
7. The exemption to train in a bubble will not extend to the period of self-isolation as the team have elected to return to their usual residences throughout New Zealand.

8. Officials consider that there is a high risk of exposure to COVID-19 prior to arrival however, given the fully vaccinated status of the team and that they have been operating as part of a bio-secure bubble while on tour overseas, this partially mitigates the high levels of COVID-19 in India. The proposed conditions and further risk mitigations for this exemption (as outlined in this paper) are in line with this level of risk.

Recommendations

We recommend you:

- a) **Note** that under the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020 (the Order), you may exempt a class of persons from any requirements under the Order, with conditions, where you are satisfied the prerequisites are met.
- b) **Note** that under the Order, 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.
- c) **Agree** to the exemption to permit the New Zealand Black Caps Cricket Team to train at the managed isolation facility (MIF) and at an approved training venue (sports MIF) while in managed isolation, subject to strict parameters and conditions as set out in this briefing and the attached exemption notice. **Yes/No**
- d) **Note** that the team will only be allowed to leave the MIF at the end of their 7-day isolation period if they return a negative day 6 test and have been assessed as meeting low-risk indicators (these timeframes will need to be extended if any team member tests positive as determined by the Medical Officer of Health).
- f) **Sign** the attached exemption notice that exempts the New Zealand Black Caps Cricket Team from requirements of the Order (as set out in this briefing) by 11.59pm 1 December 2021. **Yes/No**

Dr Ashley Bloomfield
Director-General of Health

Date:

25/11/21

Hon Chris Hipkins
Minister for COVID-19 Response

Date: 27/11/2021

New Zealand Black Caps Cricket Team exemption from requirements of the Isolation and Quarantine Order

Background

1. Border Exception Ministers have agreed to approve the Summer of Cricket which allows the New Zealand Black Caps Cricket Team (the team) to come to New Zealand via managed isolation (MBIE Briefing 2122-0065 refers).
2. The 28-member team is scheduled to arrive in Christchurch on 9 December 2021 where all members of the team will undertake 7 days of managed isolation. The team will then complete 3 days of self-isolation in their usual New Zealand places of residence.
3. The team is returning to New Zealand to participate in the Summer of Cricket Series, which is on the list of Government-approved events at H5.30.15 of the Immigration Instructions.
4. To be able to play international grade cricket, the team requires an exemption from standard managed isolation requirements so that team members can train in a designated bubble while in managed isolation.
5. For this to happen, an exemption needs to be made under clause 15A of the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020 (the Order). Under the Order, you have the authority to make an exemption for any class of persons if you are satisfied that:
 - a. the exemption is necessary or desirable in order to promote the purposes of the COVID-19 Public Health Response Act 2020;
 - b. the exemption is necessary to facilitate the execution of a government-approved event or a major government-approved programme; and
 - c. the extent of the exemption is not broader than reasonably necessary to address the matters that give rise to the exemption.

What does the exemption permit?

6. Under the proposed exemption, the team will be subject to the standard requirements that apply to any other person in a MIF, with the following limited exceptions:
 - a. provided they return a negative day 3 test and satisfy the Medical Officer of Health that they are unlikely to transmit COVID-19, the team will be able to train in a designated bubble of 26 people¹, at the following locations:
 - i. on-site in an outdoor covered gym area at the MIF

¹ A bubble can include players, management, coaching, physio and any other team staff.

- ii. off-site at a specific training facility (the Lincoln University High Performance Centre).
- 7. This exemption will **not** apply to the self-isolation period required under Part 1C of the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020 (the Order). The team have indicated that they will be spending this period individually in their usual place of residence in New Zealand and will therefore not require an exemption to train.
- 8. Like other travellers self-isolating after completing their stay in a MIF, the team's period of self-isolation will only end on receipt of a negative day 9 test result.

Conditions of the exemption

- 9. To meet the criteria for the exemption to apply, team members are required to:
 - a. have a COVID-19 polymerase chain reaction (PCR) test within 72 hours prior to commencing their travel to New Zealand;
 - b. undergo a symptom check within 48 hours prior to commencing travel; and
 - c. complete the required testing regime for COVID-19 at the MIF (on days 0/1, 3 and 6).
- 10. They must also comply with strict conditions once the exemption applies, including complying with physical distancing, mask use and strict transportation requirements between the MIF and the off-site training facility.
- 11. If at any point during their time in the MIF a team member tests positive for COVID-19 or develops symptoms, the exemption will be put on hold for all members of the team until a risk assessment and investigation is complete and further actions, if any, are determined. Team members would not be able to train during this time.
 - a. All members of a training bubble would be considered close contacts in the event of a positive test and would be treated according to the standard MIF protocols for close contacts of positive cases.
- 12. As is standard practice, all team members will be tested on day 6 of isolation and will only be allowed to leave the MIF and enter a self-isolation location of their choice if they have been assessed as meeting the low-risk indicators after a minimum of 7 days post arrival.

The exemption meets the purposes of the COVID-19 Act

- 13. The primary purpose of the COVID-19 Act is to support the public health response to COVID-19. Any exemption request should be considered in conjunction with associated conditions to reduce the risk of the spread of COVID-19 to the New Zealand community.
- 14. Officials have evaluated the risks associated with the exemption proposal taking into account the team's risk of exposure to COVID-19, the measures in place to reduce the risk of spread of COVID-19 to the community and the compliance of the team.
- 15. Having undertaken this evaluation, officials advise that while there is a high risk of transmission of COVID-19 in India, team members are at low risk of exposure to COVID-19 prior to arrival due to the extensive measures in place while on tour. To mitigate the

some of the residual risk of exposure to COVID-19 it is recommended that the training bubbles is only formed after negative Day 3 testing.

16. s 9(2)(a)

17. s 9(2)(a)

Team members have a high risk of exposure to COVID-19 before they arrive in New Zealand

18. Information in the table below is current as at 14 November 2021. Information on India and the United Kingdom have been included to account for the origin countries of all individuals included in this exemption.

Country	Cases	Vaccination
India	For the week beginning 14 November 2021, COVID risk level in India is very high. <ul style="list-style-type: none"> Rolling 7-day average of new cases: 11,507 Rate per 100,000: 2,496 	A total of 1,095,926,470 vaccine doses have been administered within a population of 1.38 billion.
United Kingdom	For the week beginning 14 November 2021, COVID risk level in the UK is very high. <ul style="list-style-type: none"> Rolling 7-day average of new cases: 38,068 Rate per 100,000: 14,141 	A total of 106,417,956 vaccine doses have been administered within a population of 67.22 million.

19. s 9(2)(a)

The team is required to comply with strict protocols prior to departure and in transit

20. New Zealand Cricket have advised that the team will be operating under strict protocols for the 14 days prior to departure for New Zealand and during transit, as set out below.

- Vaccination:** All team members (except for the baby travelling with the team) are fully vaccinated.
- Illness monitoring and testing:** The team complete illness monitoring every morning and the team will undergo a series of eight mandated RT-PCR tests while in India, including one 72 hours prior to departure for New Zealand.

- c. **Pre-departure plan:** For the 14 days prior to departure, the team will be in a bio-secure environment.
- d. **Action if someone tests positive, displays symptoms or is identified as a close contact prior to departure:** Any suspected or positive case will immediately be isolated from the rest of the team. If a negative COVID-19 test is unable to be produced prior to departure, that individual will not be permitted to travel to New Zealand.
- e. **Travel:** The team will avoid mixing with others outside the team bubble, using a separate lounge and travelling Business Class on all flights. The team will enter and exit the aircraft first.

Stringent measures will be in place when the team arrives in New Zealand

- 21. Once the team arrives in New Zealand, the following measures will be in place to reduce the risk of spreading COVID-19 to the community.
 - a. The team will undertake 7 days of managed isolation and 3 days of self-isolation and adhere to strict infection prevention and control measures. Team members have been informed about our MIQ requirements and rules.
 - b. The team will be undergoing managed isolation at the Chateau on the Park Hotel in Christchurch.
 - c. In addition to the standard MIQ facility requirements, strict infection prevention and control protocols are required to be followed for both the on-site training at the MIF and the off-site training at the sports MIF, including transport and equipment use². The C-RIQ have hosted 12 international sporting teams so have experience in logistics around managing bubbles and training.
 - d. If any members of the team display symptoms of COVID-19 upon arrival at Auckland Airport, they will be isolated and will not be permitted to join the team. A positive test result would trigger the public health response for the individual and their close contacts.

Compliance with exemption conditions

- 22. There have been cases of non-compliance by sporting teams that have been granted exemptions. Significant lessons have been learned from these earlier tours, and agencies have worked together with Cricket New Zealand to improve processes to enhance compliance and lift the understanding of New Zealand's requirements.
- 23. The Minister for COVID-19 Response has the power to revoke the exemption for some or all team members should any member of the team breach the exemption conditions.
- 24. Should additional restrictions be imposed in the region where the team reside, team management will be notified of any impacts this may have on the exemption to train. Notification will be provided in writing from the Director-General of Health if an exemption is no longer able to proceed under the restrictions put in place.

² Encompassed under the Criteria for assessing a proposed sport MIQ facility [HR 20201383 refers] alongside the accompanying Standard Operating Procedures.

25. Prior to the team's arrival, New Zealand Cricket is required to sign a Confirmation as a part of the Crown Services Agreement with the Ministry of Business, Innovation and Employment. This confirms that New Zealand Cricket understands the exemption and its requirements and has communicated the requirements to the team.
26. New Zealand Cricket has advised that any breaches of protocol will be taken seriously. There will be in-team disciplinary action and, depending on the severity of the breach, the team member could be charged with misconduct under provisions of an individual player contract.
27. The measures in place pre-departure and during transit are reliant on the team members undertaking these obligations, and it is not possible or practical for the New Zealand Government to enforce these requirements.
28. In addition, section 26(2)(a) and (b) of the COVID-19 Act provide for offences against the Order of imprisonment for a term of up to six months, or a fine of up to \$4,000.

Other purposes under the COVID-19 Act

29. The exemption will benefit communities economically and the Summer of Cricket series matches are scheduled to be played in Tauranga and Christchurch. The matches will be of benefit to New Zealanders as they are an important social event, boosting national morale.
30. CDHB have indicated that they are able to manage the health support needed for the proposal. The final agreement, including funding arrangements, is subject to CDHB Chief Executive and the Director-General of Health approval.

Other requirements and restrictions under the Air Border Order

31. Clause 7E of the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 (Air Border Order) requires that non-New Zealand citizens travelling to New Zealand via the air border must be vaccinated at least 14 days prior to their departure for New Zealand.
 - a. The team have been informed of this requirement, the groups excepted from this requirement and the exemption process for those in countries with limited access to vaccination.
32. Clause 8(2B) of the Air Border Order requires that all arrivals to New Zealand must have a negative result from a COVID-19 test administered no more than 72-hours before departure to New Zealand. The team have been made aware of this requirement.
33. Clause 8A of the Air Border Order restricts travel to New Zealand from countries deemed as very high-risk, currently including India. Travel to New Zealand from these countries is limited to only New Zealand citizens and their immediate family members. The team have been made aware of this restriction.

Other factors to be considered

34. The exemption discretion must be exercised consistently with the New Zealand Bill of Rights Act 1990 (BORA):
 - a. you have previously been advised that officials consider the requirements of managed isolation to be reasonable limitations on the rights of individuals, given the public health risk to the New Zealand community of transmission of COVID-19

- b. team members will be subject to less restrictive isolation requirements than most other returnees and, we consider that any limitations on their rights are reasonable.
 - c. the exemption also has the potential to impact freedom of movement (section 18 of the BORA) by displacing returning New Zealanders if there is insufficient capacity at MIOFs to accommodate the team and any New Zealanders wishing to return home.
35. Granting this exemption will provide further freedom not offered to other returnees giving rise to issues of equity and fairness to others. In addition, it may further hinder any social licence we have to continue granting these exemptions.
36. The decision to agree to host the team was made by Border Exceptions Ministers within the context of the Government's social and economic objectives. Officials consider that the space in MIFs that has been allocated to the team does not create an unjustified limitation on the right of New Zealand citizens to enter New Zealand, as it does not cause an unreasonable shortfall of MIF spaces.
37. Ministry of Health officials have consulted with the Ministry of Business, Innovation and Employment, Sport New Zealand and CDHB on the proposal to grant this exemption.

Next steps

38. We recommend that you grant the attached exemption to allow the New Zealand Black Caps Cricket team to train in a designated bubble of 26 people following negative day 3 testing and medical assessment.

ENDS.

Gazette notice

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

Exemption of New Zealand Black Caps Cricket Team from requirements of the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020

1. Pursuant to clause 15A of the COVID-19 Public Health Response (Isolation and Quarantine) Order 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 persons who satisfy each of the following criteria are exempt from clauses 8(2) and 8(3) of the Order:
 - a. persons who travel to New Zealand on or about 9 December 2021 to participate in the Summer of Cricket series (as listed as a Government-approved event at H5.30.15 of the Immigration Instructions) as part of the New Zealand Black Caps Cricket team, which includes (but is not limited to) players, coaches, team management and other support staff;
 - b. who have undergone a COVID-19 polymerase chain reaction test within 72 hours prior to commencing their travel to New Zealand;
 - c. who have undergone a symptom check within 48 hours prior to commencing their travel to New Zealand;
 - d. who have undergone medical testing and examination for COVID-19 within 24 hours of their arrival at their allocated managed isolation and quarantine facility (MIQF) in which they are residing and satisfy a medical officer of health that they are unlikely to transmit COVID-19; and
 - e. who have undergone medical testing and examination for COVID-19 on or around the third day after arrival in New Zealand ("Day Three Test"), and, after the Day Three Test only, satisfy a medical officer of health that they are unlikely to transmit COVID-19.(collectively "Members of the New Zealand Black Caps Cricket team").
2. This exemption will begin at 11.59pm on 1 December 2021.
3. This exemption expires after every person subject to this exemption completes their period of isolation or quarantine in accordance with clause 10 of the Order, or at 11.59pm on 16 December 2021 (whichever occurs earliest).
4. For the purposes of this exemption, a "Bubble" is a group of the Members of the New Zealand Black Caps Cricket team who may intermingle and train with each other. For the purposes of this exemption, the Members of the New Zealand Black Caps Cricket team are permitted to form a Bubble with each other.
5. The exemption from clauses 8(2) and 8(3) is subject to the following conditions:

- a. while a medical officer of health undertakes investigations (if any) relating to, or for the purpose of, this exemption, the Members of the New Zealand Black Caps Cricket team must act consistently with the requirements of clause 8(2) and 8(3) of the Order until advised otherwise by that medical officer of health;
 - b. all Members of the New Zealand Black Caps Cricket team must only travel between the training facility that has been designated a low-risk MIQF for the purposes of the Members of the New Zealand Black Caps Cricket team to undertake training ("training facility") and their allocated MIQF in which they are residing. This travel must be as direct as reasonably practicable;
 - c. the travel between the training facility and their allocated MIQF in which they are residing must be undertaken in vehicles that have been designated by the Crown for this purpose;
 - d. all Members of the New Zealand Black Caps Cricket team must not have any in-person contact with any other person who is not in their Bubble, except to the extent required to undertake the travel to and from the training facility and their allocated MIQF in which they are residing and except as contemplated by the Order (for example, contact may be required with the driver of the designated vehicle and any site manager);
 - e. all Members of the New Zealand Black Caps Cricket team must wear medical face coverings as provided by the relevant site manager while traveling in the designated vehicles to and from the training facility and the allocated MIQF in which they are residing;
 - f. all Members of the New Zealand Black Caps Cricket team must maintain physical distancing (to the greatest extent practicable) from all other residents (i.e. those persons not subject to this exemption) at their allocated MIQF at which they are residing and any other location and in accordance with this exemption; and
 - g. all Members of the New Zealand Black Caps Cricket team may only access the areas of the MIQF in which they reside (their room) and spaces designated for official team business and the training facility, both as advised by the relevant site manager.
6. If any person subject to this exemption is required to stay in a high-risk MIQF or otherwise fails to satisfy a medical officer of health that they are unlikely to transmit COVID-19, this exemption ceases to apply to that person (upon notice given by the Director-General of Health to New Zealand Cricket).
 7. If any person, or groups of persons, subject to this exemption does not meet or comply with a condition of this exemption, or breaches a condition of this exemption, this exemption will cease to apply upon the giving of notice by the Director-General of Health to New Zealand Cricket in respect to either all persons subject to this exemption or any person (or groups of persons) as named in the notice. The exemption may either cease to apply in its entirety, for a fixed time period as set out in the notice or until remedial conditions set out in the notice are met.

8. If any person subject to this exemption breaches the Order, or is arrested, charged or is suspected of committing an offence punishable by imprisonment, this exemption will cease to apply upon the giving of notice by the Director-General of Health to New Zealand Cricket in respect of the persons named in that notice. The exemption may either cease to apply in its entirety, for a fixed time period as set out in the notice or until remedial conditions set out in the notice are met.
9. Subject to the terms of this exemption, all other provisions of the Order continue to apply until this exemption expires.
10. Any changes to New Zealand COVID-19 requirements during the period of this exemption that may affect this exemption will be advised to all Members of the New Zealand Black Caps Cricket team upon the giving of written notice by the Director-General of Health to New Zealand Cricket in respect to either all persons subject to this exemption, or any person (or groups of persons) as named in the notice.

Dated at Wellington this 27th day of November 2021.



Hon CHRIS HIPKINS, Minister for COVID-19 Response.