

Briefing

Proposed improvements to our air border and isolation and quarantine system

Date due to MO: 13 November 2020 **Action required by:** 18 November 2020

Security level: IN CONFIDENCE **Health Report number:** 20201934

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

Copy to: Hon Andrew Little, Minister of Health

Contact for telephone discussion

Name	Position	Telephone
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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 Withdrawn | |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:

Proposed improvements to our air border and isolation and quarantine system

Security level: IN CONFIDENCE **Date:** 13 November 2020

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

Purpose of report

This report seeks your approval to amend aspects of our air border and isolation and quarantine system. It also provides you with relevant information to consider in amending the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 (Air Border Order) and COVID-19 Public Health Response (Isolation and Quarantine) Order 2020 (Isolation and Quarantine Order).

Summary

- The Air Border and Isolation and Quarantine Orders are two of the main legal tools that New Zealand uses to prevent COVID-19 entering the community. The Ministry of Health continues to review the Orders to ensure that these tools remain appropriate, fit for purposes and are operationally sustainable.
- Officials are proposing a number of amendments and changes to these Orders, to improve and strengthen our air border and isolation and quarantine system. It is essential that New Zealand's air border and isolation and quarantine system are robust and sustainable, while ensuring that the wellbeing of our aircrew, and health of our communities, are protected in the long-term.
- Subject to your approval of the proposed changes, officials will issue drafting instructions to the Parliamentary Counsel Office to draft amendments to the Air Border and Isolation and Quarantine Orders.
- There are a number of changes proposed, including:
 - an amendment to the definition of 'aircrew';
 - inclusion of further exemption categories for managed isolation;
 - amendments to the restrictions for New Zealand-based aircrew operating international flights; and
 - a number of other changes and technical amendments.
- The detail and rationale for these changes is set out in the body of the report.

Recommendations

Officials recommend you:

- a) **Agree** to make the proposed changes to the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 to:
- i. include repositioning crew in the definition of 'aircrew' Yes/No
 - ii. include an exemption from managed isolation for pilots travelling for training purposes Yes/No
 - iii. include an exemption from managed isolation for Police escorting deportees Yes/No
 - iv. include an exemption from some requirements of managed isolation for international assistance crews entering New Zealand Yes/No
 - v. include a requirement for aircrew to comply with Ministry of Health guidance for overseas layovers Yes/No
 - vi. include a requirement for all medical attendants returning to New Zealand to undergo a risk assessment by a suitably qualified medical professional to determine whether they need to undergo a period of managed or self-isolation Yes/No
 - vii. include a requirement for all returning aircrew to undergo a health check by a suitably qualified medical professional to determine whether they need to undergo a period of managed or self-isolation Yes/No
 - viii. include a requirement for all aircrew who have been overseas for more than 7 days, or who have travelled domestically overseas to undergo risk assessment and management as approved by a Medical Officer of Health. Yes/No
 - ix. make a minor amendment to ensure that passengers who have not been to another country, or come into contact with international arrivals, are not required to go into managed isolation if their flight turns around shortly after take-off from New Zealand. Yes/No
- b) **Agree** to amend the Isolation and Quarantine and Air Border Orders to ensure that people arriving from all places outside of New Zealand, including the Ross Dependency/Antarctica, are covered by the requirements of the Isolation and Quarantine Order. Yes/No
- c) **Agree** that National Antarctic Programme personnel entering or returning to New Zealand from the Ross Dependency/Antarctica who pose a negligible public health risk will not be required to enter managed isolation and quarantine. Yes/No
- c) **Agree** to amending the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020 to ensure that all relevant individual and operational implications are considered when determining whether there is a need for an alternative place of isolation or quarantine. Yes/No

- d) **Agree** to the Ministry of Health issuing drafting instructions to the Parliamentary Counsel Office to make the recommended amendments to the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 and the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020. **Yes/No**
- e) **Note** that, subject to your agreement, you will be provided with a further Health Report covering draft amendments to the relevant Orders, for consultation with relevant Ministers. **Noted**



Dr Ashley Bloomfield
Director-General of Health
Date: 18/11/2020



Hon Chris Hipkins
Minister for COVID-19 Response
Date: 24/11/2020

PROACTIVELY RELEASED

Proposed improvements to our air border and isolation and quarantine system

Background

1. Prior to 4 October 2020, aircrew were exempt from requirements under the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 (Air Border Order) that those arriving in New Zealand must enter managed isolation for 14 days and return a negative COVID-19 test before returning to the community.
2. While agreed Ministry of Health guidance for overseas layovers was in place for Air New Zealand aircrew (the only New Zealand-based commercial carrier operating international flights at the time), compliance with them was voluntary. Officials have previously advised you that there were no significant compliance issues with this guidance [HR 20201633 refers], and there have been no cases of COVID-19 among aircrew since April 2020. However, to ensure the continued strength of our air border, and to ensure that there were enforcement measures in place should there ever be any issues with compliance, the Minister of Health asked officials to draft the necessary amendments to give effect to legal requirements.
3. The Air Border Order currently requires:
 - a. all overseas-based aircrew, other than those who remain airside, to spend the duration of their layover in New Zealand in a managed isolation facility, including using designated transport;
 - b. all New Zealand-based international aircrew who fly on higher-risk routes to self-isolate for at least 48 hours on their return to New Zealand and until they return a negative COVID-19 test;
 - c. all New Zealand-based aircrew to use personal protective equipment (PPE) in-flight and follow strict requirements for transport and accommodation during layovers (key safety standards); and
 - d. all New Zealand-based international aircrew, and aircrew operating domestic managed isolation transfer flights, to undergo regular, mandatory surveillance testing for COVID-19.
4. During operationalisation of the Amendment Order, officials were made aware of a number of unintended consequences of the strengthened requirements, which are a risk to the health and wellbeing of aircrew members, and unnecessary from a public health perspective.
5. You have also had conversations with, and received letters from, Air New Zealand on the likely implications of some of these measures, particularly the implications of the self-isolation and layover requirements for aircrew.
6. In addition, Ministry officials have been made aware of a number of other operational and technical amendments that can be made to the Air Border and Isolation and Quarantine Orders to improve and refine our air border and isolation and quarantine system. The proposed changes include:

- a. an amendment to the definition of 'aircrew';
- b. inclusion of further exemption categories for managed isolation;
- c. amendments to the restrictions for New Zealand-based aircrew operating international flights; and
- d. a number of other changes and technical amendments.

Amendment 1: Definition of 'aircrew'

7. Aircrew member is defined in the Air Border Order to mean a person who is identified as a crew member on the crew manifest for the aircraft on which they arrive in New Zealand. This definition was adopted in the Order, as the Ministry considered that all crew working on the flight should be included on the crew manifest (commonly known as the GenDec). However, this definition does not appropriately provide for 'repositioning crew'.
8. Repositioning crew are crew who are travelling in the course of their duties but are not working on the particular flight. For example, a repositioning crew member would include a person who works on an outbound flight but returns as a passenger on the inbound flight (or vice versa). Repositioning is a common operational situation.
9. Air New Zealand have made officials aware that 'repositioning crew' are not included on the GenDec and are therefore not covered by the exemptions to managed isolation for aircrew under the Air Border Order. The Ministry can confirm that exclusion from the Air Border Order was not intentional.
10. An exemption was put in place for repositioning crew on 20 October, and again on 3 November, to ensure that airlines were able to keep operating flights with repositioning crew. Due to the continued operational requirements for repositioning crew, and the low public health risk that they pose to the New Zealand community, officials recommend that repositioning crew are included in the definition of aircrew in the Air Border Order.
11. The proposed change will not increase the public health risk to New Zealand. All aircrew (including repositioning aircrew) are subject to key safety standards that they must meet as part of the Air Border Order, including wearing PPE while overseas and meeting certain requirements for self-isolation while on layover. A condition of the exemption is that repositioning crew must always meet these key safety standards during their overseas travel. Under the current exemption, repositioning crew must also have a health assessment upon arrival into New Zealand, which is required for all arriving aircrew.

Amendment 2: Exemptions from managed isolation

12. There are three groups of persons for whom officials are proposing an exemption:
 - a. pilots travelling to Australia for training purposes;
 - b. police escorts of deportees; and
 - c. international assistance crew travelling to New Zealand during a national emergency.
13. Officials consider that any public health risk posed by these exemptions can be sufficiently mitigated.

14. The table in Appendix 1 provides analysis and an outline of the risk mitigation measures for these proposed exemptions.

Amendment 3: Restrictions for New Zealand-based aircrew

15. Officials propose amending the Air Border Order to include a requirement for aircrew to comply with Ministry of Health guidance for a range of measures.
16. The risks of COVID-19 spreading to or from aircrew are managed, to the extent possible, by a suite of mandatory public health measures under the Air Border Order:
- a. using PPE by aircrew on all flights;
 - b. using travel corridors within airports, and transport and accommodation controls (including self-isolation in hotel rooms) for New Zealand-based crew during layovers overseas and for overseas-based aircrew with layovers in New Zealand;
 - c. requiring aircrew to undergo a health assessment on arrival in New Zealand with appropriate action taken, if necessary, in consultation with Air New Zealand medical staff and a medical officer of health;
 - d. requiring New Zealand-based aircrew returning from 'higher risk' layovers (currently Los Angeles and San Francisco) to self-isolate for at least 48 hours or until returning a negative COVID-19 result;¹ and
 - e. requiring New Zealand-based aircrew to undergo regular mandatory surveillance testing for COVID-19.

3.1. Requirements for self-isolation on overseas layovers and in New Zealand

17. Under the previous Ministry of Health guidance, aircrew on overseas layovers that were not considered to be high risk² were permitted to leave their hotel or training facilities for 'essential trips', which included one hour of outdoor exercise per day, and leaving the hotel to buy food. Aircrew were not permitted to use the hotel gym, pool, or other recreational or communal areas. Aircrew were also not permitted to socialise with their fellow crew members.
18. Under the Air Border Order, all aircrew on overseas layovers are required to isolate in their hotel rooms for the duration of their layovers and are not permitted to leave their rooms for exercise or to access food. A strict interpretation does not allow crew to exercise or access food, which was unintended.
19. The Ministry of Health has worked closely with the aviation industry since the Amendment Order came into force, and in particular, Air New Zealand.
20. Air New Zealand has expressed strong concerns about crew not being able to leave their rooms to exercise and considers that this will be detrimental to the health and wellbeing of crew, particularly in the long-term.

¹ Note that higher risk routes are designated by the Director-General.

² The transmission risk of country/port and its influence on the layover was to be discussed with the Ministry of Health on a case by case basis. Airlines were familiar with the risk framework under the previous guidance.

21. Officials have undertaken a risk assessment of overseas layover requirements and have determined that the risk of being exposed to COVID-19 when moving through the hotel to get food (for example, to pick up food deliveries from the front door) or to go to an exercise area is low, provided that aircrew:
 - a. do not leave the hotel to access food;
 - b. wear appropriate PPE (face masks and gloves);
 - c. maintain physical distancing; and
 - d. practice good hand hygiene.
22. Officials recommend that the Air Border Order be amended to mandate compliance with Ministry of Health guidance which will be updated as and when required as the international situation evolves. This will ensure that there is a sustainable solution in place, which considers public health advice, operational considerations and the appropriateness of restrictions, and prevents the need for further amendments to the Air Border Order. This will also ensure that any requirements for crew are clear and simple, and easy to understand.
23. If the proposed requirements (set out in Appendix 2) are adhered to for aircrew exercise, access to food and crew socialisation, the risk of exposure to COVID-19 will be sufficiently mitigated.

3.2. Medical attendants

24. Under the Air Border Order, currently all New Zealand-based medical attendants returning to New Zealand are treated the same as aircrew returning from higher-risk routes. They are required to self-isolate for at 48 hours and return a negative COVID-19 test result upon returning to New Zealand.
25. Medical attendants are generally thought to be of higher risk than aircrew due to the interactions that they may have in transit or at the destination.
26. All medical attendants should be required to follow the same requirements as other aircrew when overseas, that is, self-isolating on any overseas layovers, and following the key safety standards in transit and on layovers.
27. Medical attendants should be subject to a risk assessment by a suitably qualified medical professional, and be required to enter managed isolation, or a longer self-isolation period if it is found that they pose a higher risk of having or transmitting COVID-19. This risk assessment can be undertaken prior to departure, based on the planned route and duration of the trip.

3.3. Management of unwell aircrew

28. There are currently no legal requirements for aircrew arriving in New Zealand with symptoms that are consistent with COVID-19. Individual cases are managed on an as-needed basis following discussion between their primary care professional and a Medical Officer of Health.
29. Although there is currently no indication that symptomatic crew are not following the guidance, and there have been no COVID-19 cases among New Zealand aircrew since April, there is still a need to ensure that our air border is as secure as possible.

30. Therefore, officials recommend that the current process for returning crew be mandated in the Air Border Order for all returning crew who are not required to go into managed isolation. That is, all returning crew will be required to:
- a. undergo a health assessment upon arrival, and satisfy a suitably qualified medical professional that they are at a low risk of transmitting COVID-19, and
 - b. if they cannot do this, be required to enter a managed isolation facility (that is, if they present with symptoms, or there is some other reason that they may not be at a low-risk of transmitting COVID-19).

3.4. Risk profile for New Zealand-based aircrew

31. Prior to the 4 October amendments, guidance recommended that any aircrew who had been out of New Zealand for more than 7 days, or who had travelled domestically in any country outside of New Zealand be required to enter a managed isolation facility for 14 days.
32. Public health advice is that the risk of contracting COVID-19 is much higher the longer a person stays outside of New Zealand. In addition, there is a much higher risk of aircrew contracting COVID-19 if they have travelled domestically in a country outside of New Zealand.
33. Therefore, we recommend that all returning aircrew who have been out of New Zealand for longer than 7 days, or have travelled domestically overseas be required to undergo a risk assessment by a Medical Officer of Health, to determine whether they should be required to enter managed or self-isolation.

3.5. Likely implications of the amended layover and self-isolation requirements

34. Note that the previous position, prior to the 4 October amendments, was that aircrew were able to exercise in self-isolation and on layovers. The removal of the ability to exercise under a strict interpretation of the Air Border Order was unintended from a policy and legal perspective, and unnecessary based on a review by public health experts.

Public health implications

35. **s 9(2)(g)(i)**
[REDACTED]
36. Public health risk assessments have been as outlined in the sections above. The proposed amendments to the Air Border Order are largely along the same lines as the measures that have been in place previously (prior to 4 October). These measures were working well, and had good levels of compliance, as evidenced by no COVID-19 cases among aircrew since April.
37. The proposed amendments pose very limited additional risk of transmission of COVID-19 to the New Zealand community, and will continue to:
- a. ensure that all reasonable mitigations are in place to ensure that aircrew are not exposed to COVID-19, and response appropriately if they are; and

- b. identify early if New Zealand-based aircrew have been exposed to COVID-19 as a result of layovers or passenger contact.

Amendment 4: Other changes

38. There are also a number of other proposed amendments to improve the operational effectiveness of our border Orders.

4.1. Flights returning to New Zealand

39. There are currently a number of flights travelling to Australia where passengers are not required to quarantine upon arrival in Australia, as part of the unilateral travel bubble ('green zone' flights). Passengers on these flights are required to have been in New Zealand for at least 14 days prior to travelling, and have not come into contact with any international arrivals.
40. It has been identified that the wording of the Air Border Order may lead to an unintended consequence whereby if one of these flights to Australia takes off and leaves New Zealand's territorial area (which is the area extending from the coast of New Zealand to the 12 nautical mile limit), and is required to return to New Zealand (for example, due to a medical emergency or mechanical fault), all passengers on that flight would be required to enter managed isolation in New Zealand, as they would be a 'person who arrives in New Zealand by air'. Note that while this situation has not yet occurred, it is a possibility, and would have implications for our managed isolation capacity.
41. This situation is unintended and unnecessary from a public health perspective (provided that all passengers have spent at least the previous 14 days in New Zealand). In this situation, passengers have not come into contact with any returning international passengers while in the airport, have not left the plane, and have not entered any other country.
42. Officials recommend that a minor change is made to the Air Border Order so that it applies to persons who 'have not completed 14-day isolation or quarantine in New Zealand, and arrive in New Zealand by air from a place or country outside of New Zealand'. If you agree with this recommendation, and the one below, the wording of the Air Border Order and the Isolation and Quarantine Order will be consistent.

4.2. Amendments for people returning from Antarctica

43. In the Isolation and Quarantine Order, people entering/returning from Antarctica are not considered to be arriving in New Zealand, as a person's arrival in New Zealand is defined as 'from a country outside New Zealand'. The Ross Dependency/Antarctica does not fall within that definition, because New Zealand has maintained a right of sovereignty over the Ross Dependency (which is part of the Antarctic continent) since 1923 and the Ross Dependency is part of the Realm of New Zealand. This means that arrivals from Antarctica are currently not subject to managed isolation and quarantine requirements.
44. The Ministry of Foreign Affairs and Trade (MFAT) works with National Antarctic Programmes to collate information relevant to the public health risk posed by programme personnel returning to New Zealand from Antarctica. This information is provided to a Medical Officer of Health who completes a public health risk assessment of personnel returning from Antarctica, generally within a specific period. If they have any

concerns, they will discuss with or escalate concerns to the Ministry of Health. To date, all public health risk assessments have determined that the public health risk posed by returning personnel has been negligible, and these personnel have not entered managed isolation on arrival.

45. It is important that movements from the Ross Dependency/Antarctica to New Zealand are clearly and appropriately accounted for in the Isolation and Quarantine Order. To do this, officials propose amending the Isolation and Quarantine Order to ensure that arrivals from the Ross Dependency/Antarctica are included.
46. However, it is also important that the movements from the Ross Dependency/Antarctica to New Zealand are managed, in a way that is commensurate with the (to date) negligible public health risk posed by personnel and reflects New Zealand's broader interests and obligations.
47. Further, as the 'gateway' to the Ross Sea region of Antarctica, New Zealand is the conduit for essential support to Antarctic stations and New Zealand has international legal obligations with several partners (including the US, Korea and Italy). These legal obligations including facilitating the entry and exit of programme personnel through New Zealand. New Zealand's own Antarctic Programme is closely intertwined with those of our partners; and there are shared logistical arrangements.
48. Officials therefore propose amending the Air Border Order so that if National Antarctic Programme personnel entering or returning to New Zealand from the Ross Dependency/Antarctica are determined to pose a negligible public health risk to New Zealand they will not be required to enter managed isolation. If a Medical Officer of Health determines that personnel pose a public health risk that is greater than negligible, appropriate steps will be taken to ensure that this risk is managed.
49. This amendment will broadly reflect the current process, referred to above, which is working well.

4.3. Other place of isolation or quarantine

50. Under clause 12 of the Isolation and Quarantine Order, a Medical Officer of Health may determine for any reasons that a person's place of isolation or quarantine is another facility or place, not designated as a managed isolation facility. For example, a person may have significant medical needs that make managed isolation inappropriate.
51. There have been a small number of cases where a request to allow an alternative place of isolation and quarantine have been declined, and there are serious welfare risks to the person from isolating in a managed isolation facility, as suitable care is unable to be provided.
52. Officials recommend that minor amendments be made to the Isolation and Quarantine Order to ensure that all of the relevant individual and operational implications of a person's request for an alternative place of isolation and quarantine are considered.
53. Ministry of Health officials will continue to work with MBIE on the operationalisation of this requirement.

Amendment 5: Minor technical changes

54. In addition to the amendments outlined above, officials propose some minor technical amendments to the Orders. These changes will clarify understanding in some areas and do not involve changes in policy positions or intention of the Orders. A list of proposed minor amendments is set out in Appendix 3.

Mechanism

55. If you wish to make the above amendments, officials recommend that you do so through amendments to the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 and the COVID-19 Public Health Response (Isolation and Quarantine Order) 2020, which were issued under the COVID-19 Public Health Response Act 2020 (the Act).
56. Subject to your approval to the proposed amendments, the Ministry of Health will issue drafting instructions to PCO to give effect to the regime through such amendments for your approval.
57. To make an amendment to an Order under section 15(4) of the Act, you must:
- 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;
 - 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;
 - 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);
 - have consulted the Prime Minister and the Minister of Justice, and any other Minister thought fit; and
 - be satisfied that the amendment is appropriate to achieve the purpose of the Act.
58. You may also wish to consult with the Minister of Health on the amendments.

Justification for making the proposed amendments

Public health justifications

59. The public health justification for making these amendments is set out in the above advice.
60. You are receiving ongoing advice about the risks associated with COVID-19, with regular updates. In accordance with section 9(2) of the Act, you may have regard to that advice without it being repeated here. COVID-19 is a highly infectious disease which may be spread by people who are not showing symptoms. This supports significant measures for those at heightened risk of contracting or spreading COVID-19 to identify potential cases and reduce the risk of any spread.

Consistency with the New Zealand Bill of Rights Act 1990

61. The power to make an amendment to an Order under sections 9 and 11 of the Act must be exercised consistently with NZBORA.

62. The amendments proposed allow aircrew more freedom that is currently available under the Order.
63. Given the infectiousness and seriousness of COVID-19, its capacity for asymptomatic spread and the currently widespread state of the global COVID-19 pandemic, there remains a strong justification for measures which inhibit or prevent the transmission of COVID-19. New Zealanders exposed to COVID-19 face a potential threat to their lives, their ongoing health and wellbeing, and they may spread COVID-19 to others in the community.
64. Officials consider that insofar as the rights above are engaged and limited by the proposed amendments, any limitations are justifiable in a free and democratic society, noting that:
- a. the proposed amendments are risk-based, and impositions on individuals' rights are directly proportionate to the level of risk of COVID-19 transmission associated with their entry into New Zealand;
 - b. testing and mandatory self-isolation, where imposed, are the least restrictive interventions which could mitigate the risk of COVID-19 transmission to an acceptable level;
 - c. given the seriousness of the COVID-19 pandemic and its risks to public health, testing and mandatory self-isolation are justifiable insofar as they avoid significant limitations on the freedom and lives of all New Zealanders (either due to the impacts of COVID-19 infection, or due to other reasonable-but-restrictive public health measures which would otherwise be required to contain COVID-19 outbreaks).
65. A full analysis of rights potentially engaged by the proposed amendments is set out at Appendix 4.
66. The impact of self-isolation of aircrew on NZBORA was discussed in detail in HR 20201633, and officials considered there is either no infringement of, or a justified limitation on, the rights to freedom of assembly and association, freedom of movement, freedom from arbitrary detention and for detainees to be treated with dignity and humanity.

Consultation with Ministers

67. Prior to making an Order under section 11 of the Act, you are required to consult with the Prime Minister and Minister of Justice, and any other Ministers as you see fit. You may wish to consult with the Minister of Health. The same requirements apply to making amendments to Orders under section 15.
68. Subject to your agreement, officials will provide you with the draft amendment to the Order, and a further, legislative Briefing for consideration and Ministerial consultation.

Consultation and engagement on these proposals

69. Officials have consulted with Crown Law, the Ministry of Justice, the Ministry of Transport, the Ministry of Foreign Affairs and Trade and MBIE on these proposals.
70. Officials have also engaged with Air New Zealand, Qantas and the Board of Airline Representatives New Zealand (BARNZ) on these proposals.

Implementation

71. Agencies will work to give effect to the proposed amendments. This will include the Ministry of Health continuing to work with agencies, and Air New Zealand and other relevant stakeholders to ensure that the requirements are continuing to be complied with.

Guidance

72. If you agree to the proposed approach, the Ministry of Health will develop relevant guidance alongside the proposed amendments to the Orders.
73. This guidance will be developed in consultation with industry stakeholders and relevant agencies, to ensure that it is useful from an operational perspective, and likely to be complied with.

Next steps

74. Subject to your agreement, the Ministry of Health will issue drafting instructions to PCO to make amendments to the Orders to give effect to the proposed requirements, which will be provided to you for consideration and Ministerial consultation.

ENDS.

PROACTIVELY RELEASED

Appendix 1: Proposed exemptions for certain groups

Exempted group	Status quo	Proposed change	Rationale	Risk mitigation
Pilots traveling to Australia for simulator training on simulators that are not available in New Zealand, or to fly aircraft that are not available.	Pilots travelling for training purposes are required to apply for Ministerial exemptions from the self-isolation requirements on layovers (so that they can travel to and from training facilities), and managed isolation requirements when returning to New Zealand.	Include a further exemption process in the Air Border Order to allow aircrew to travel for training purposes, as approved by a Medical Officer of Health, who will ensure that adequate public health standards are met.	Pilots are required to travel to Australia for training purposes to meet Civil Aviation Authority recertification requirements.	<p>This process will allow tranches of pilots to be exempted on a case-by-case basis, according to public health advice, and strict parameters in place to ensure that they are following key safety standards while overseas. All airlines will be required to fill out a specific risk assessment.</p> <p>Depending on the risk assessment, some pilots returning may need to self-isolation on their return to New Zealand for at least 48 hours and return a negative COVID-19 test result.</p>
Police escorts of deportees	Police are currently unable to escort deportees out of New Zealand, due to the requirement to undergo 14 days of managed isolation upon return.	Include members of the New Zealand Police performing in-flight duties in the definition of 'excluded arrival' in the Air Border Order.	Police are required to escort deportees on flights out of New Zealand. They are performing an important public service.	<p>Officers will be required to follow all of the key safety standards of aircrew while inflight and on layovers. They will also be required to self-isolate, as required for aircrew, on any overseas layover. If any evidence is provided that this has not happened, they may be required to enter managed isolation for 14 days.</p> <p>Officials will continue to work with the New Zealand Police and INZ on this exemption and expect compliance to be high.</p>
International assistance crew	The National Emergency Management Agency (NEMA) has identified that the current rules may hinder the provision of international assistance, for example following a large earthquake. Assistance may be required for search and rescue or medical services, or disruption to critical infrastructure. In this situation, it would be necessary for international emergency crews to be allowed to enter New Zealand without the need for a 14 day stay in managed isolation.	Include a further clause in the Air Border Order to allow a Medical Officer of Health to approve the entry of accepted or requested international assistance crews.	Applying for a Ministerial exemption in this situation would be unlikely to be timely enough and would delay the deployment of essential assistance services to the New Zealand community. The low likelihood of this event (but its high level of seriousness for New Zealand) makes an exemption an appropriate response.	<p>The Medical Officer of Health will perform a risk assessment, weighing up the seriousness of the emergency and not having access to international assistance with the risk of importing and transmitting COVID-19 into the community. Officials will continue to work with NEMA and other relevant agencies to ensure that the clause is broad enough to encompass all situations where New Zealand will require international assistance, balanced with the continued need to keep our communities safe from COVID-19 transmission.</p> <p>Strict parameters would be placed on the assistance crew in New Zealand, including a period of isolation from the general public where practicable, and:</p> <ol style="list-style-type: none"> key safety standards followed at all times in transit and on arrival; dedicated transportation and accommodation; remaining in the "assistance bubble" wherever possible for at least 14 days; maintain physical distancing (to the greatest extent possible) from other people; and report for and undergo medical examination and testing for COVID-19 on arrival and at any time during their period of isolation or quarantine.

Appendix 2: Proposed aircrew guidance

Exercise on overseas layovers

The proposed approach to the guidance for exercise on overseas layovers, taking into account public health advice, is that aircrew:

- can exercise during layovers in an area within the hotel grounds where they are able to maintain a 2-metre distance from other people;
- are not permitted to use hotel gyms, pools or changing facilities; and
- based on individual risk assessments for overseas locations, may be able to leave the hotel grounds to exercise outdoors if they maintain a 2 metre physical distance from anyone outside their bubble, do not use public transport to get to the place of exercise (that is, they stay near the hotel), and do not use shared equipment (for example, outdoor exercise equipment in parks).

Access to food on overseas layovers

The proposed approach to the guidance, taking into account public health advice, is that aircrew:

- must access food from within the hotel in all destinations, for example room service, contactless delivery to the hotel (and collection from the reception or other area by crew if necessary), or food that they have brought into the destination from New Zealand; and
- are not be permitted to leave the hotel to access food.

The importance of hand hygiene with regards to accessing food will be emphasised.

Socialisation on overseas layovers

Under the previous guidance, aircrew were unable to socialise with anyone on overseas layovers, including crew from their own flight. The amendment allowed aircrew to socialise with their fellow crew members, in one of the allocated rooms.

Air New Zealand has expressed gratitude on behalf of its crew for this change and advised that this will be essential to maintaining crew wellbeing, and that a relaxation of the restrictions will ensure crew compliance in the long term.

However, representatives from Air New Zealand have expressed some discomfort in the requirement for crew to socialise in bedrooms and would prefer for them to be able to socialise in another space other than allocated bedrooms.

The proposed approach to the guidance, taking into account public health advice and feedback from industry, is that aircrew:

- can only socialise with other aircrew who are on the same tour of duty with them (that is, on the same inbound and outbound flight);
- can socialise in a shared space in the hotel, provided the shared space allows them to maintain physical distancing for at least 2 metres from other hotel guests and staff; and

- must wear appropriate PPE and practice good hand hygiene when socialising outside of their assigned rooms.

Aircrew will also be permitted to exercise together, following the requirements for exercise, as part of their socialisation.

Exercise in self-isolation in New Zealand

Aircrew flying on higher risk routes are legally required to self-isolate for at least 48 hours upon return to New Zealand, or until returning a negative COVID-19 test result. They are only permitted to leave their place of self-isolation in very limited circumstances, such as to preserve or protect their own or another person's life, health, or safety in an emergency.

Aircrew were previously permitted to exercise under the Ministry of Health guidance.

Health officials have undertaken a risk assessment of this requirement and have determined that the benefits of allowing aircrew to exercise during self-isolation outweigh the very low risk of transmitting COVID-19 to New Zealanders if they are infected. The risk assessment considered:

- being exposed to COVID-19 during layovers is low if aircrew have followed the key safety standards set out during inflight, on layovers and when transiting through airports; and
- transmitting COVID-19 to New Zealanders during exercise (if they have it) is also low; and
- the benefits of allowing aircrew to exercise are high, both for their mental and physical wellbeing. Of note, they are at a higher risk of developing deep vein thrombosis and poor mental health if they are not allowed to exercise while self-isolating than they are of transmitting COVID-19 to the community. There are also additional benefits of being outside with regards to preventing vitamin D deficiency.

The proposed approach to guidance, taking into account public health advice, is that aircrew be allowed to exercise outside while in self-isolation in New Zealand, with the following conditions in place:

- maintain a 2-metre social distance from other people; and
- walk, run, or ride a bike outside, while maintaining a physical distancing of at least 2 metres from other people who are not self-isolating.

This policy is consistent with the advice that is currently provided to close contacts of cases during their self-isolation period.

Appendix 3: Minor technical amendments

Officials propose making some minor technical amendments to the Orders, which do not require policy change, as outlined in the Table below.

Brief issue description	Relevant Order	Proposed amendment
There are no enforcement measures or penalties available if returnees deliberately abscond from transport to and/or from managed isolation and quarantine.	Air Border Order	Clarify that transport to and from managed isolation and quarantine forms part of the isolation and quarantine requirement under the Order and subject to enforcement if infringed. This is consistent with the overall policy related to people leaving managed isolation without authority.
The term 'transit' creates confusion, as it has a different meaning to the definition of 'transit' under immigration settings.	Isolation and Quarantine Order (clause 11)	Minor change to the sub-heading of clause 11 to clarify the meaning of transit.
'Exempt person' is persons who are exempt from entering managed isolation under the Air Border or Isolation and Quarantine Orders. There are some people who do need to enter managed isolation but do not need to hold a voucher, for example overseas-based aircrew, or New Zealand-based aircrew who do not meet the key safety requirements.	Air Border Order	Minor change to ensure that the Air Border Order supports the operational arrangements in place between airlines, managed isolation and quarantine operations and INZ. This provides clarity that these groups are not required to hold vouchers for managed isolation.
The Chief Executive of MBIE has the ability to permit a person to leave their place of isolation or quarantine (for example, to attend court), but there is no specific no ability to impose conditions (for example to wear PPE or social distance) when leaving the place of isolation. This creates some inconsistencies across managed isolation exemption categories and limits the ability to manage risk around some exemptions.	Isolation and Quarantine Order (clause 13)	Include the ability for the CE of MBIE to impose conditions, such as wearing PPE or distance from others, to align with other exemption clauses.

PROACTIVELY RELEASED