

Briefing

Regulatory changes to enable quarantine-free travel

Date due to MO: 10 December 2020 **Action required by:** 16 December 2020

Security level: IN CONFIDENCE **Health Report number:** 20202048

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

Copy to: Hon Andrew Little, Minister of Health

Contact for telephone discussion

Name	Position	Telephone
Dr Ashley Bloomfield	Director-General of Health	s 9(2)(a)
Maree Roberts	Deputy Director-General of Health, 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 Withdrawn | |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:

Regulatory changes to enable quarantine-free travel

Security level: IN CONFIDENCE **Date:** 10 December 2020

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

Purpose of report

This report seeks your approval to amend the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 (Air Border Order) and the COVID-19 Public Health Response (Maritime Border) Order (No 2) 2020 (Maritime Border Order) to enable quarantine-free travel with countries that have entered into a quarantine-free travel arrangement with New Zealand.

Summary

- Cabinet has agreed general principles for quarantine-free travel and that the first quarantine-free travel arrangement is intended to be with Australia [CAB-20-MIN-0278]. Cabinet also agreed that officials should move forward to establish quarantine-free travel with the Cook Islands and Niue [CAB-20-MIN-0345]. New Zealand has now concluded arrangements with these party countries, and it is expected that quarantine-free travel will commence during the first quarter of 2021.
- Amendments need to be made to the Air Border Order to exempt people travelling from partner countries, in accordance with a quarantine-free travel arrangement, from any quarantine or isolation requirements. The Maritime Border Order also needs to be amended **§ 9(2)(g)(i), § 9(2)(h), § 9(2)(j)**. The amendments to these Orders need to be generic so that they are applicable to other countries that enter into a quarantine-free travel arrangement with New Zealand.
- Officials are proposing a small number of changes to exempt eligible persons travelling on specified flights or ships from quarantine-free travel countries from quarantine and isolation requirements, to set out the eligibility criteria for passengers and crew on these craft, and to provide a process for suspending quarantine-free travel if required.
- Pending your approval of the proposed changes, officials will issue instructions to the Parliamentary Counsel Office to draft amendments to the Orders.
- While there is no firm timeframe for the proposed changes to come into force, officials would like to have the amended Orders drafted to ensure they can be put in place as soon as possible after an announcement is made to commence quarantine-free travel.

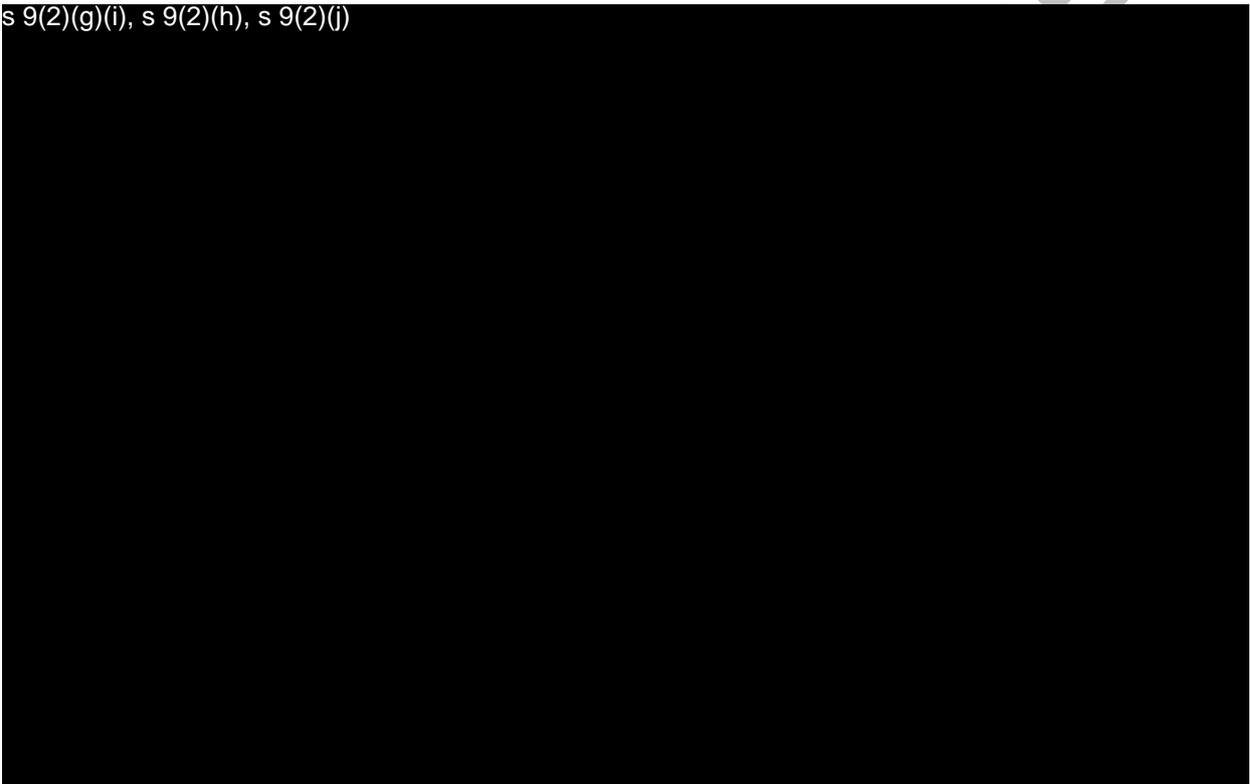
Recommendations

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. exempt from quarantine requirements passengers travelling on flights from a country who have entered into a quarantine-free travel arrangement with New Zealand Yes No
- ii. provide that passengers on flights will only be exempt from quarantine requirements if everyone on board meets specified eligibility criteria and completes a health declaration Yes No
- iii. empower the Minister for Covid-19 Response to suspend the exemption for flights from a partner country, or a specified part of that country, if there is reasonable cause to believe that doing so will prevent or limit the risk of an outbreak or spread of COVID-19 in New Zealand or the partner country. Yes No

b) s 9(2)(g)(i), s 9(2)(h), s 9(2)(j)



- c) **Agree** to the Ministry of Health issuing drafting instructions to the Parliamentary Counsel Office making amendments to the Air Border Order and Maritime Border Order. Yes No
- d) **Note** that, subject to your agreement, you will be provided with a further Health Report covering draft amendments to the Air Border Order and Maritime Border Order, for consultation with relevant Ministers. Yes No



Dr Ashley Bloomfield
Director-General of Health

Date: 10/12/2020



Hon Chris Hipkins
Minister for COVID-19 Response

Date: 20/12/2020

Regulatory changes to enable quarantine-free travel

Background

1. On 15 June 2020, Cabinet agreed general principles for quarantine-free travel [CAB-20-MIN-0278]. Cabinet also agreed that the first quarantine-free travel arrangement is intended to be with Australia and, subsequently, agreed that officials should move forward to establish quarantine-free travel with the Cook Islands and Niue [CAB-20-MIN-0345]. New Zealand has now concluded arrangements with these jurisdictions, and it is expected that quarantine-free travel will commence during the first quarter of 2021.
2. The objective of quarantine-free travel is to enable people to move freely between partner countries without having to quarantine on arrival, in a way that:
 - a. provides confidence to governments and people that travelling will be safe;
 - b. ensures public health requirements are met; ensures people travelling to New Zealand do not have, or are unlikely to have, COVID-19;
 - c. is practically workable at the border; and
 - d. is commercially viable and operationally workable for airlines and airports.
3. Quarantine-free travel will only be permitted when each party to an arrangement (either New Zealand and Australia, New Zealand and the Cook Islands, or New Zealand and Niue) has jointly determined the necessary health and border preconditions have been met.
4. To enable quarantine-free travel to New Zealand, amendments need to be made to the Air Border Order and the Maritime Border Order to exempt people travelling from those jurisdictions, in accordance with a quarantine-free travel arrangement with New Zealand, from any quarantine or isolation requirements.

Proposal

5. At this stage, there is no firm timeframe for the proposed amendments to the Air Border Order and Maritime Border Order to come into force. However, an agreed Trans-Tasman quarantine-free travel arrangement is imminent. Officials would like to have the amended Orders drafted in a template form to ensure that they can be put in place as soon as possible after an announcement is made to commence quarantine-free travel.

Air Border Order

6. Currently, the Air Border Order requires all persons who arrive in New Zealand by air (with a few exemptions for air crew, maritime crew travelling to their ship, medical attendants and diplomats) to go into a Managed Isolation and Quarantine Facility (MIQF) for at least 14 days upon arrival.

Exempting flights from COVID-safe travel zone countries

7. To enable quarantine-free air travel to New Zealand, an amendment needs to be made to exempt people travelling from a partner country by air from the isolation and quarantine requirements set out in clause 8 of the Order.

8. The countries that have entered into a quarantine-free travel arrangement with New Zealand should be set out in a Schedule to the Order, which may be amended by way of a notice issued by the Minister for COVID-19 Response after the arrangement has been negotiated and agreed.

Eligibility criteria and health declaration

9. If the two weeks quarantine requirement is removed, other layers of assurance need to be relied on to protect the health of New Zealanders. An essential layer of assurance includes ensuring that passengers are in good health when travelling to New Zealand from a partner country (and vice versa).
10. To ensure passengers meet certain eligibility and health requirements, the Order will provide that passengers will not be allowed to undertake quarantine-free travel if in the past 14 days they:
 - a. have travelled outside New Zealand and the partner country; or
 - b. have been diagnosed with COVID-19 or are awaiting the results of a COVID-19 test.
11. Passengers will also be required to declare that they are not experiencing any loss of smell or symptoms of COVID-19: namely coughing; fever; difficulty breathing; sneezing and a runny nose; and a sore throat. If a passenger indicates they are experiencing symptoms they will be required to undergo a secondary health assessment and may be denied boarding under ill-passenger protocols.
12. Not all flights from a partner country will meet the eligibility criteria (and vice versa). An airline may still operate flights where passengers must enter a MIQF on arrival (for instance, because the flight is carrying transit passengers or replacement crew members for commercial ships operating in New Zealand waters). Officials recommend that quarantine-free travel should only apply if the airline has specified the flight as one on which only eligible passengers may travel. To enable this to happen, the airline will also need to take reasonable steps to ensure that each passenger on board the aircraft meets the eligibility criteria and has made the health declaration.

Suspension of quarantine-free travel

13. If there is a material change in a partner country, or a specified area within the country, following commencement of quarantine-free travel, Ministers, senior officials, and experts from both countries would need to work through the measures available to respond to the outbreak of COVID-19.
14. It may be necessary to suspend quarantine-free travel if no satisfactory options are available to respond to an outbreak in either country. This 'worst case' scenario raises several practical and policy issues, including whether returning passengers would be required to quarantine and how associated capacity constraints and costs would be met; whether sufficient commercial flights would be available to enable travellers to return quickly, and if not whether the Government might facilitate repatriation; and provision for of in-country support if travellers were unable to return due to the re-imposition of quarantine requirements.
15. Work is underway on these issues in the context of preparing a draft suspension and response framework. Further advice will be provided on 16 December 2020, seeking your views on possible options to enable travellers to return to New Zealand *en masse* in a short

period of time. Some of these options may require amendments to the COVID-19 Public Health Response (Isolation and Quarantine) Order (No 2) 2020. If your preferred approach requires regulatory change, we will seek your agreement to make the proposed changes to the Isolation and Quarantine Order and issue drafting instructions in that report.

16. In the meantime, officials recommend that the Order includes a provision empowering the Minister to suspend the exemption quickly for flights from a partner country, or a specified part of that country. The suspension should only occur if there is reasonable cause to believe that doing so will prevent or limit the risk of a significant outbreak or spread of COVID-19 in New Zealand or a partner country.

Maritime Border Order

s 9(2)(g)(i), s 9(2)(h), s 9(2)(j)

18. The Maritime Border Order currently requires all permitted arrivals by sea to remain in quarantine on their ship (or go into a MIQF) for at least 14 days since last contact, and for all crew to meet the low-risk indicators before any crew may enter the New Zealand community.

s 9(2)(g)(i), s 9(2)(h), s 9(2)(j)

21. Given the nature of the maritime industry (which is not under the same level of scrutiny by border officials at the point of departure), the agent or master of the ship will need to apply for an exemption from quarantine requirements for their crew. Exemptions will be granted on a case-by-case basis by the Director-General of Health if there are reasonable grounds to believe the eligibility criteria and health requirements have been satisfied. For instance, exemptions will not be granted if a crew member has joined the vessel in the last 14 days from a country that does not have quarantine-free travel to New Zealand.

Suspension of quarantine-free travel

22. A provision should also be included empowering the Minister to suspend the exemption for ships arriving from a partner country, or a specified part of that country, if there is reasonable cause to believe that doing so will prevent or limit the risk of an outbreak or spread of COVID-19 in New Zealand or a partner country.

Human Rights

23. To date, border restrictions including quarantine measures have been demonstrably justified by the serious public health risks associated with the importation of COVID-19 from abroad. New Zealand citizens (which includes people from the Cook Islands and Niue) have the right to enter and move freely within New Zealand under section 18 of the New Zealand Bill of Rights Act 1990. Continuing to require quarantine for New Zealanders returning from party countries in the absence of a health justification could lead to a successful challenge in the courts, particularly as demand for places in managed isolation grows. The proposed regulatory changes will help address this issue.

Next steps

24. Subject to your agreement, the Ministry of Health will issue drafting instructions to the Parliamentary Counsel Office to make amendments to the Air Border Order and Maritime Border Order to give effect to the proposed requirements to enable quarantine-free travel, which will be provided to you for consideration and Ministerial consultation.

ENDS.