

Briefing

COVID-19 Public Health Response (Air Border and Isolation and Quarantine) Amendment Order (No 2) 2020 for signing

Date due to MO:	16 December 2020	Action required by:	18 December 2020
Security level:	IN CONFIDENCE	Health Report number:	20202125
To:	Hon Chris Hipkins, Minister for COVID-19 Response		
Copy to:	Hon Michael Wood, Minister of Transport Hon Nanaia Mahuta, Minister of Foreign Affairs and Trade Hon Grant Robertson, Minister of Finance		

Contact for telephone discussion

Name	Position	Telephone
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Maree Roberts	Deputy Director-General of Health System Strategy and Policy	s 9(2)(a)

Minister's office to complete:

- Approved Decline Noted
 Needs change Seen Overtaken by events
 See Minister's Notes Withdrawn

Comment:

COVID-19 Public Health Response (Air Border and Isolation and Quarantine) Amendment Order (No 2) 2020 for signing

Security level: IN CONFIDENCE **Date:** 16 December 2020

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

Purpose of report

1. This report recommends that you sign the attached COVID-19 Public Health Response (Air Border and Isolation and Quarantine) Amendment Order (No 2) 2020 (the Amendment Order).

Summary

2. On 24 November 2020, you agreed to adopt a number of amendments to refine the air border system and the isolation and quarantine system [HR 20201934 refers].
3. The draft COVID-19 Public Health Response (Air Border and Isolation and Quarantine) Amendment Order (No 2) 2020 (the Amendment Order) attached as Appendix 1 gives effect to those decisions, including:
 - a. an amendment to the definition of 'aircrew' to include repositioning crew;
 - b. exclusion from managed isolation for more classes of people;
 - c. amendments to the restrictions for New Zealand-based aircrew operating international flights; and
 - d. other changes and technical amendments.
4. To make an Order under section 11 of the COVID-19 Public Health Response Act 2020 (COVID-19 Act) you must:
 - a. receive advice from the Director-General of Health about –
 - i. the risks of the outbreak or spread of COVID-19; and
 - ii. the nature and extent of measures that are appropriate to address those risks; and
 - b. have regard to any decision by the Government on how to respond to those risks and avoid, mitigate or remedy the effects of the outbreak or spread of COVID-19 (including taking into account any social, economic and other factors); and
 - c. be satisfied that the proposed Order does not limit, or is a justified limit, on the rights and freedoms in the New Zealand Bill of Rights Act 1990; and

- d. consult with the Prime Minister, the Ministers of Justice and Health and any other Ministers you think necessary; and
 - e. be satisfied that the Order is appropriate to achieve the purpose of the COVID-19 Act.
5. Officials have worked closely with the Ministry of Transport, the Ministry of Foreign Affairs and Trade, Ministry for Business Innovation and Employment and other stakeholders to develop the amendments, and will continue to work to ensure smooth implementation. Note that many of the amendments are minor and technical in nature and will not involve any operational changes.
6. You have consulted on the Amendment Order, and this report provides you with a final version for signing.

Recommendations

We recommend you:

- a) **Note** advice from the Director-General of Health is that the COVID-19 Public Health Response (Air Border and Isolation and Quarantine) Amendment Order (No 2) 2020 is in line with the purpose of the COVID-19 Public Health Response Act 2020 to prevent, and limit the risk of, the outbreak or spread of COVID-19, by further refining the system for managing all arrivals into New Zealand from overseas. **Noted**
- b) **Agree** to sign the attached COVID-19 Public Health Response (Air Border and Isolation and Quarantine) Amendment Order (No 2) 2020. **Yes, No**



Dr Ashley Bloomfield
Director-General of Health
Date: 15/12/2020



Hon Chris Hipkins
Minister for COVID-19 Response
Date: 17/12/2020

COVID-19 Public Health Response (Air Border and Isolation and Quarantine) Amendment Order (No 2) 2020

Background

1. On 24 November 2020, you agreed to make several amendments to the air border and isolation and quarantine system [HR 20201934 refers].
2. These amendments have been made to the COVID-19 Public Health Response (Air Border) Order 2020 (Air Border Order) and the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020 (Isolation and Quarantine Order).
3. The COVID-19 Public Health Response (Air Border and Isolation and Quarantine) Amendment Order (No 2) 2020 (the Amendment Order), attached in Appendix 1, gives effect to your policy decision above, including:
 - a. an amendment to the definition of 'aircrew' for repositioning crew;
 - b. exclusion from managed isolation for more classes of people;
 - c. amendments to the restrictions for New Zealand-based aircrew operating international flights; and
 - d. a number of other changes and technical amendments.

Contents of the Amendment Order

Amendment 1: Definition of 'aircrew'¹

4. Under the Amendment Order, the definition of 'aircrew member' in the Air Border Order is amended to include 'repositioning crew'. This will ensure that repositioning crew are not subject to managed isolation under the Air Border Order, in line with other returning New Zealand-based aircrew.
5. Note that repositioning crew does not include horse grooms or crew ferrying aircraft overseas and returning as passengers. These crew will be required to enter managed isolation upon return, due to the higher public health risk associated with returning as passengers on commercial flights.

Amendment 2: Exemptions from managed isolation

6. Under the Amendment Order, there are a number of new groups with specific exemptions from managed isolation:
 - a. pilots travelling to Australia for training purposes;
 - b. police escorts of deportees;

¹ Clause 4 of the Air Border Order.

- c. international assistance teams travelling to New Zealand; and
 - d. people entering from Antarctica.
7. Further detail about each of these groups is provided below.

Pilots travelling to Australia for training purposes²

8. Pilots returning from flight simulator training that is not available in New Zealand will be exempt from managed isolation upon their return, provided that:
 - a. they follow the key safety standards at all times while overseas (except to the extent that they leave their accommodation and travel to the training facility); and
 - b. upon return to New Zealand, they self-isolate for at least 48 hours, undergo a COVID-19 test and then continue to self-isolate until they return a negative result.
9. If there is evidence to show that these conditions have not been met, returning pilots may be required to enter a managed isolation or quarantine facility.
10. Note that this proposed amendment is in line with the recent decision you made to grant exemptions to Jetconnect and Tasman Cargo from managed isolation [HR 20202043].

Police escorts of deportees³

11. New Zealand Police escorting deportees out of New Zealand will be exempt from managed isolation on their return, provided that:
 - a. they follow the key safety standards at all times while overseas (except to the extent that they are performing their duties); and
 - b. upon return to New Zealand, they self-isolate for at least 48 hours, undergo a COVID-19 test and then continue to self-isolate until they return a negative result.
12. If there is evidence to show that these conditions have not been met, returning Police may be required to enter a managed isolation or quarantine facility.
13. Officers involved in these transfers do not go landside, but hand over the deportee to the Police or relevant authorities in the receiving country.
14. Police have been unable to perform this important function throughout most of 2020, as the requirement to enter managed isolation for 14 days upon return to New Zealand makes it operationally unviable.

International assistance teams travelling to New Zealand⁴

15. Following a large scale, rapid onset emergency event, New Zealand will likely request immediate support from international partners for lifesaving activities e.g. medical and

² New clause 23 of the Air Border Order.

³ New clause 18 of the Air Border Order.

⁴ New clause 27 of the Air Border Order.

- urban search and rescue resources. The first 72 hours immediately following a major emergency are considered the most critical for international assistance to be effective.
16. Further specialist subject matter expertise may be required for disaster victim identification or critical infrastructure.
 17. It is essential that these crews can enter New Zealand at short notice, without the requirement for 14 days managed isolation.
 18. People can be exempted by the Director-General of Health from managed isolation if they have arrived in New Zealand for the sole purpose of assisting in civil defence emergency management during a state of emergency, and the National Emergency Management Agency supports their arrival in New Zealand for that purpose.
 19. The Director-General may impose any conditions considered necessary.

People arriving from Antarctica⁵

20. People arriving to New Zealand from Antarctica as members of a scientific programme or expedition, who have been determined to pose a negligible public health risk by a Medical Officer of Health, will be exempt from the requirement to enter managed isolation.
21. If a Medical Officer of Health determines that those people pose a public health risk that is greater than negligible, they have a discretion to require those people to enter a managed isolation or quarantine facility.

Amendment 3: Restrictions for New Zealand-based aircrew

22. The Amendment Order contains several changes for New Zealand-based aircrew. Note that these changes do not substantially increase the public health risk associated with returning aircrew.

Requirements for self-isolation on overseas layovers⁶

23. Aircrew will be permitted to leave their allocated rooms on overseas layovers to:
 - a. collect food from within the hotel to take back to their rooms;
 - b. exercise (but not use the hotel gym, pool, sauna or other shared facilities); and
 - c. socialise (only with their fellow aircrew on the same incoming and outgoing flight) in an area which is set aside for the exclusive use of aircrew of the airline for which the aircrew member works. This cannot be in a hotel restaurant, bar or other room that is shared with members of the public or hotel staff.

⁵ New clause 13 of the Air Border Order.

⁶ New Schedule 2 of the Isolation and Quarantine Order.

Requirements for self-isolation in New Zealand⁷

24. Aircrew will be permitted to leave their place of residence in New Zealand during self-isolation to exercise, so long as they maintain physical distancing from all other persons.

Medical attendants⁸

25. Medical attendants will 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, along with the existing requirement to self-isolate for 48 hours and return a negative COVID-19 test upon returning to New Zealand.
26. All medical attendants returning from overseas duty will be subject to a risk assessment by a Medical Officer of Health and be required to enter managed isolation if it is determined that they pose a higher risk of having or transmitting COVID-19. The risk assessment can be undertaken prior to arrival back in New Zealand, based on the planned route and duration of the trip.

Management of returning aircrew⁹

27. All aircrew returning to New Zealand will be required to:
- a. undergo a health assessment upon arrival, and satisfy a suitably qualified health practitioner that they are at a low risk of transmitting COVID-19; and
 - b. if they cannot do this, enter a managed isolation or quarantine facility (for example, if they present with symptoms, or there is some other reason that they may not be considered a low risk for transmitting COVID-19).

Risk profile for New Zealand-based aircrew¹⁰

28. Aircrew returning to New Zealand who have been overseas for longer than 7 days, or who have travelled domestically in overseas countries, will be required to undergo a risk assessment by a Medical Officer of Health, and may be required to enter managed or self-isolation based on the outcome of the risk assessment.

Amendment 4: Other changes

Flights returning to New Zealand¹¹

29. The Amendment Order slightly amends the current Air Border Order to ensure that if an airplane leaves New Zealand and has to turn around without landing in a different

⁷ Amended clause 15G of the Isolation and Quarantine Order.

⁸ New clause 17 of the Air Border Order.

⁹ New clause 21 of the Air Border Order.

¹⁰ New clause 24(1)(a)(b) and (2) of the Air Border Order.

¹¹ New clause 14 of the Air Border Order.

jurisdiction (for example, for a medical emergency or a mechanical fault), those people will not be subject to managed isolation in New Zealand.

Other place of isolation or quarantine¹²

30. When considering whether to allow a person to complete isolation or quarantine in another place in New Zealand (not a managed isolation facility), the Medical Officer of Health will be required to consider all the relevant individual and operational implications of the request. This would include explicit consideration of whether the person's needs can be adequately met in a standard isolation or quarantine facility and where the alternative place of isolation or quarantine should be.
31. MBIE would remain responsible for implementing any approved request (including transport logistics and compliance monitoring) with the Medical Officer of Health providing further information necessary to inform those plans.

Amendment 5: Minor technical changes

32. The Amendment Order contains several other minor technical amendments to provide clarity and ensure that the policy intent of the Orders is met. These technical changes are summarised in the table in Appendix 2.

Process for amending a section 11 Order

33. Under the COVID-19 Public Health Response Act 2020 (COVID-19 Act), an Order may be made if either:
 - a. a state of emergency has been declared (under the Civil Defence Emergency Management Act 2002);
 - b. an Epidemic Notice is in force (under the Epidemic Preparedness Act 2006); or
 - c. it has been authorised by the Prime Minister.
34. There is currently an Epidemic Notice in place, which allows Orders to be made under section 11 of the COVID-19 Act.
35. As the Minister for COVID-19 Response, you may make Orders under section 11 of the COVID-19 Act.
36. To make an Order under section 11 you must:
 - a. have received advice from the Director-General about –
 - i. the risks of the outbreak or spread of COVID-19; and
 - ii. the nature and extent of measures that are appropriate to address those risks; and
 - b. be satisfied that the proposed Order does not limit or is a justified limit on the rights and freedoms in the New Zealand Bill of Rights Act 1990 (NZBORA); and
 - c. consult with the Prime Minister, Ministers of Health and Justice, and any other Ministers you think necessary; and

¹² New clause 12(2A) of the Isolation and Quarantine Order.

- d. be satisfied that the Order is appropriate to achieve the purposes of the Act.
- 37. I understand that you have consulted with the Prime Minister and Ministers of Health and Justice, and other relevant Ministers on the draft Order.
- 38. Although there was no feedback received from Ministers on the draft Amendment Order, the Prime Minister had some questions regarding restrictions for aircrew while on layover. A summary of the questions and the Ministry of Health's responses are set out in Appendix 3.
- 39. My advice 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 is set out below.

Public health rationale for amendments

- 40. You have previously been provided with detailed public health rationale for the proposed amendments [HR 20201934 refers].
- 41. You are receiving ongoing advice about the risks associated with COVID-19. In accordance with section 9(2) of the COVID-19 Act, you may have regard to that advice without it being repeated here.
- 42. 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 risk.

New Zealand Bill of Rights Act 1990

- 43. A matter for you to consider each time an Order is proposed under the COVID-19 Public Health Response Act 2020 is whether the exercise of such powers will be appropriate. The power to make an Order under section 11 of the Act must be exercised consistently with NZBORA.
- 44. A number of rights are engaged by the proposed amendments including:
 - a. the right to freedom of movement under section 18;
 - b. the right to freedom of association under section 17;
 - c. the right to refuse to undergo medical treatment under section 11;
 - d. the right to be secure against unreasonable search or seizure under section 21; and
 - e. the right to be free from arbitrary detention under section 22.
- 45. It is considered that insofar as the rights noted above are engaged and limited by the amendments, any limitations are justifiable in a free and democratic society, noting that:
 - a. the 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; and
 - 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 freedoms 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).
46. Many of the amendments for aircrew, outlined above, are intended to better protect their ongoing mental and physical wellness. Alleviating restrictions on exercising and interacting with other aircrew while on layovers are designed to enhance the rights of people detained to be treated with humanity and respect for inherent dignity (section 23(5) of NZBORA), and ensure that any limitations on rights are no more than is reasonably necessary.
 47. You have previously been provided with more detailed advice about the potential NZBORA implications of these proposals [HR 20201934].

Implementation

48. Officials have worked closely with the Ministries of Transport, Foreign Affairs and Trade, Business Innovation and Employment, and other stakeholders to develop the amendments, and will continue to work to ensure smooth implementation. Note that many of the changes are minor and technical and will not involve operational changes.
49. Note that if you sign this Amendment Order on Friday 18 December, it will be Gazetted on Monday 21 December, and come into force on Wednesday 23 December.

Next steps

50. If you are satisfied that the grounds for making the order are met and it is appropriate to achieve the purpose of the COVID-19 Public Health Response Act 2020, you may wish to sign the attached Order.

ENDS.

Appendix 1: COVID-19 Public Health Response (Air Border and Isolation and Quarantine) Amendment Order (No 2) 2020

PROACTIVELY RELEASED

COVID-19 Public Health Response (Air Border and Isolation and Quarantine) Amendment Order (No 2) 2020

This order is made by the Minister for COVID-19 Response—

- (a) under sections 11 and 15(1) of the COVID-19 Public Health Response Act 2020; and
- (b) in accordance with section 9 of that Act.

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Order

1 Title

This order is the COVID-19 Public Health Response (Air Border and Isolation and Quarantine) Amendment Order (No 2) 2020.

2 Commencement

This order comes into force at 11.59 pm on 23 December 2020.

Part 1

Amendments to COVID-19 Public Health Response (Air Border) Order (No 2) 2020

3 Amendments to COVID-19 Public Health Response (Air Border) Order (No 2) 2020

This Part amends the COVID-19 Public Health Response (Air Border) Order (No 2) 2020.

4 Clause 4 amended (Interpretation)

(1) In clause 4(1), replace the definition of **aircrew member** with:

aircrew member means any person who—

- (a) is identified as a crew member on the crew manifest for the aircraft on which they arrive in New Zealand; or
- (b) is not identified as a crew member on that manifest but is on the aircraft at the direction of an airline for which they work as a pilot, co-pilot, or flight attendant

(2) In clause 4(1), revoke the definitions of **airside**, **airside condition**, **exempt person**, and **overseas airside condition**.

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- (3) In clause 4(1), definition of **confirmed allocation**, replace “a managed isolation or quarantine facility” with “an MIQF”.
- (4) In clause 4(1), definition of **higher-risk route**, replace “8C” with “9”.
- (5) In clause 4(1), insert in their appropriate alphabetical order:
 - MIQF** means a managed isolation or quarantine facility as defined by section 5(1) of the COVID-19 Public Health Response Act 2020
 - specified aircrew member** has the meaning given by clause 19(1)
- (6) In clause 4(1), replace the definition of **place of isolation or quarantine** with:
 - place of isolation or quarantine,—**
 - (a) for a person to whom Part 1 of the Isolation and Quarantine Order applies, has the meaning given by clause 12 of that order; or
 - (b) for a person to whom Part 1A of the Isolation and Quarantine Order applies, means the accommodation notified to the Ministry of Health under that Part as the person’s place of self-isolation

5 Clause 7A amended (Air carrier must not cause aircraft to arrive in New Zealand without complying with requirement)

In clause 7A, insert as subclause (2):

- (2) In this clause, **exempt person** means a person who is exempt from clause 8(2A) by or under this order.

6 Clause 8 amended (Obligations on persons arriving in New Zealand by air)

- (1) In clause 8(2A), delete “(unless they are an exempt person)”.
- (2) After clause 8(3), insert:
 - (3A) If the person’s place of isolation or quarantine is an MIQF, the person must travel from the airport to the MIQF in accordance with directions of the chief executive of MBIE.

7 Parts 3 and 4 replaced

Replace Parts 3 and 4 with:

Part 3
Exemptions

Subpart 1—Designation of higher-risk routes

9 Designation of higher-risk routes

- (1) For the purposes of this Part, the Director-General may designate a route of travel between a place outside New Zealand and another place (in or outside New Zealand) as a higher-risk route.

(2) The notice must—

- (a) be published on a publicly accessible Internet site maintained by or on behalf of the New Zealand Government; and
- (b) be notified in the *Gazette*.

Subpart 2—Arrivals generally

Exemptions from whole of clause 8

10 Arrivals remaining airside until departure from New Zealand

(1) A person arriving in New Zealand is exempt from clause 8 if, until they depart from New Zealand, they remain on the airside of—

- (a) the airport at which they arrive in New Zealand; and
- (b) any other airport through which they transit.

(2) Without limiting subclause (1), any transit passenger is exempt from clause 8.

(3) However, a transit passenger who is given permission to enter New Zealand in accordance with section 89(2) or 91 of the Immigration Act 2009 is not exempt from clause 8.

(4) In this clause,—

airside, of an airport, means any part of the airport that is inaccessible to the general public but that is accessible to international arriving or international transiting passengers

transit passenger has the meaning given by section 4 of the Immigration Act 2009.

11 Diplomatic and consular officials, and New Zealand Defence Force

The following persons arriving by air in New Zealand are exempt from clause 8:

- (a) a person who is entitled to any immunity from jurisdiction by or under—
 - (i) the Diplomatic Privileges and Immunities Act 1968 (other than a person referred to in section 10D(2)(d) of that Act) or the Consular Privileges and Immunities Act 1971; or
 - (ii) any order under either of those Acts;
- (b) a person who is a member of the New Zealand Defence Force and returning from service outside New Zealand.

12 Crew of ship

(1) A person arriving by air in New Zealand who is a member of the crew of a ship is exempt from clause 8, subject to the following conditions:

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- (a) immediately after leaving the airport at which the person arrives in New Zealand, the person must travel (whether by air or by any other form or forms of transport) to and then board the ship; and
 - (b) the ship must be scheduled to depart from New Zealand as soon as is reasonably practicable after the person boards the ship.
- (2) In this clause, **crew**, **depart from New Zealand**, and **ship** have the meanings given to them by the COVID-19 Public Health Response (Maritime Border) Order (No 2) 2020.

13 Arrivals from Antarctica

- (1) A person arriving in New Zealand by air from Antarctica is exempt from clause 8 if the person is—
 - (a) a member of, or associated with, a scientific programme or expedition under the auspices of a Contracting Party to the Antarctic Treaty (within the meaning of the Antarctica Act 1960); or
 - (b) a person to whom section 5 of the Antarctica Act 1960 applies.
- (2) However, the person is not exempt from clause 8(2), (3), or (4) if a medical officer of health has assessed that there is a more than negligible risk that the group of arrivals from Antarctica to which the person belongs has been exposed to COVID-19 within 14 days before that arrival.
- (3) An assessment made before the person's arrival does not have effect for the purposes of subclause (2) unless it is made no earlier than 7 days before that arrival.

14 Aircraft turned back to New Zealand

- (1) A person arriving by air in New Zealand is exempt from clause 8 if the aircraft on which the person arrives did not land in a place outside New Zealand after it most recently departed from New Zealand (for example, it may have been necessary for the aircraft to return to New Zealand because of a mechanical fault).
- (2) However, this clause does not exempt the person from clause 8 if the person was in New Zealand for less than 14 days immediately before the aircraft's most recent departure from New Zealand.

15 Designated persons

A person arriving by air in New Zealand who, immediately before the commencement of this order, was designated by the Director-General as critical to providing services to assist with the response to COVID-19 is exempt from clause 8.

Exemptions relating to confirmed allocation only

16 Exemption under Isolation and Quarantine Order

- (1) A person who arrives in New Zealand by air is exempt from clause 8(2A) if the person is exempt from any requirement for the person's place of isolation or quarantine to be an MIQF because of an exemption made by or under the Isolation and Quarantine Order.
- (2) Nothing in this clause limits any other exemption from clause 8(2A) that may be provided for by or under this order.

17 Medical attendants

The following persons arriving in New Zealand by air are exempt from clause 8(2A):

- (a) any person who is assisting, as a medical attendant, with a medical transfer to New Zealand;
- (b) any person who is arriving in New Zealand to assist, as a medical attendant, with a medical transfer from New Zealand;
- (c) any person who is returning from assisting, as a medical attendant, with a medical transfer from New Zealand and is ordinarily resident in New Zealand.

18 Police escorts of extradited or deported persons

A member of the New Zealand Police arriving in New Zealand by air is exempt from clause 8(2A) if the member—

- (a) is escorting a person in connection with that person's extradition to New Zealand; or
- (b) is returning from escorting a person in connection with that person's deportation from New Zealand.

Subpart 3—Specified aircrew members

Application

19 Application of subpart

- (1) This subpart applies to an aircrew member (a **specified aircrew member**) arriving in New Zealand by air who is ordinarily resident in New Zealand.
- (2) This subpart does not apply to a specified aircrew member to whom clause 10(1) or 13 applies.

Exemptions

20 Exemption from requirement for confirmed allocation

A specified aircrew member is exempt from clause 8(2A).

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21 Exemption from requirement to be isolated or quarantined

- (1) A specified aircrew member is exempt from clause 8(3) if a suitably qualified health practitioner responsible for the medical examination and testing of the member under clause 8(2) is satisfied that the member is at a low risk of having or transmitting COVID-19.
- (2) The exemption provided for in this clause does not apply in the circumstances set out in clauses 22 to 25.

Exceptions to exemption from requirement to be isolated or quarantined

22 Higher-risk route

A specified aircrew member is not exempt from clause 8(3) if they have travelled on a higher-risk route within the 7 days immediately before arriving in New Zealand by air.

23 Pilots returning from flight simulator training

A specified aircrew member is not exempt from clause 8(3) if they are returning from a period of flight simulator training in a country outside New Zealand.

24 Absences of at least 7 days or overseas domestic travel

- (1) A specified aircrew member is not exempt from clause 8(3) if they—
 - (a) were outside New Zealand for a continuous period of at least 7 days immediately before arriving in New Zealand by air; or
 - (b) have travelled domestically outside New Zealand within the 7 days immediately before arriving in New Zealand by air.
- (2) A specified aircrew member **travels domestically outside New Zealand** if—
 - (a) they travel by aircraft on a domestic route in a country outside New Zealand; and
 - (b) there are other persons travelling on the aircraft who are not—
 - (i) the pilot or a co-pilot of the aircraft; or
 - (ii) a person who works as a pilot, co-pilot, or flight attendant for the same airline as the aircrew member.

25 Failure to meet key safety standards

- (1) A specified aircrew member is not exempt from clause 8(3) if a medical officer of health determines (on the basis of information brought to that officer's attention) that there are reasonable grounds to believe that, within the 7 days immediately before arriving in New Zealand by air and while outside New Zealand, the aircrew member has failed to meet 1 or more of the key safety standards.
- (2) The **key safety standards** are set out in Part 1 of Schedule 2 of the Isolation and Quarantine Order.

- (3) For the purposes of this clause, a reference in that Part to a relevant crew member is to be treated as if it were a reference to a specified aircrew member.

Subpart 4—Powers to grant exemptions

26 Power for Minister to grant exemptions from this order

- (1) The Minister may exempt any person or class of persons from the requirement to comply with any provision of this order or the application of any provision of this order if the Minister is satisfied that—
- (a) the exemption is necessary or desirable in order to promote the purposes of the Act or the purposes of this order; and
 - (b) the extent of the exemption is not broader than is reasonably necessary to address the matters giving rise to the exemption.
- (2) The Minister may impose conditions on the exemption as the Minister considers necessary.
- (3) The Minister must take into account the advice of the Director-General when deciding—
- (a) whether to grant an exemption; and
 - (b) what (if any) conditions to impose on an exemption.
- (4) An exemption for any specified person must be notified in writing to the applicant and the exempt person.
- (5) An exemption for any class of persons must—
- (a) be published on a publicly accessible Internet site maintained by or on behalf of the New Zealand Government; and
 - (b) be notified in the *Gazette*.

27 Power for Director-General to grant exemptions from this order to emergency workers

- (1) The Director-General may exempt any person or class of persons arriving in Zealand for the purposes of assisting in the response to an emergency in respect of which a state of emergency is declared.
- (2) The Director-General must be satisfied that—
- (a) the exemption is necessary or desirable in order to promote the purposes of the Act or the purposes of this order; and
 - (b) the extent of the exemption is not broader than is reasonably necessary to address the matters giving rise to the exemption; and
 - (c) based on the advice of the National Emergency Management Agency, the person or class of persons is critical to assisting in the response to the emergency.

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- (3) The Director-General may impose conditions on the exemption as the Director-General considers necessary.
- (4) An exemption for any specified person must be notified in writing to the applicant and the exempt person.
- (5) An exemption for any class of persons must—
- (a) be published on a publicly accessible Internet site maintained by or on behalf of the New Zealand Government; and
 - (b) be notified in the *Gazette*.
- (6) In this clause,—
- emergency** includes an emergency that may occur
- state of emergency** has the meaning given by the Civil Defence Emergency Management Act 2002.

Part 2

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

**8 Amendments to COVID-19 Public Health Response (Isolation and
Quarantine) Order 2020**

This Part amends the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020.

9 Clause 4 amended (Interpretation)

- (1) In clause 4(1), replace the definition of **aircrew member** with:

aircrew member means any person who—

- (a) is identified as a crew member on the crew manifest for the aircraft on which they arrive in New Zealand; or
- (b) is not identified as a crew member on that manifest but is on the aircraft at the direction of an airline for which they work as a pilot, co-pilot, or flight attendant

- (2) In clause 4(1), insert in its appropriate alphabetical order:

airside, of an airport, means any part of the airport that is inaccessible to the general public but that is accessible to international arriving or international transiting passengers

- (3) Replace clause 4(2) with:

- (2) In this order, a reference to a person's **arrival in New Zealand** is a reference to the person's most recent arrival in New Zealand from—

- (a) a country outside New Zealand; or
- (b) the Ross Dependency or any other place outside New Zealand.

10 Clause 7 amended (Part applies to relevant persons)

Replace clause 7(2) with:

- (2) However, this Part applies to a relevant worker only to the extent provided in clauses 15DA and 15DB.

11 Clause 11 amended (Early end to period of isolation or quarantine for certain people)

- (1) In the heading above clause 11(3), replace “*in transit*” with “*on short-term stay*”.
- (2) In clause 11(3), after “depart”, insert “from”.
- (3) Replace clause 11(4B) with:
- (4B) Their **period of isolation or quarantine** ends 12 hours before their scheduled departure from New Zealand, as long as they leave their place of isolation or quarantine only to travel to the place of departure and depart accordingly.

12 Clause 12 amended (Place of isolation or quarantine)

After clause 12(2), insert:

- (2A) In determining that a person’s place of isolation or quarantine is any other facility or place under subclause (2), the medical officer of health must consider—
- (a) relevant individual and operational implications; and
- (b) whether the other facility or place is able to meet the person’s particular physical or other needs.

13 Clause 13 amended (Leaving place of isolation or quarantine)

In clause 13, insert as subclause (2):

- (2) However, a person leaving their place of isolation or quarantine under this clause must comply with any directions of, or conditions imposed by, the chief executive of MBIE.

14 Clause 15B replaced (Part applies to relevant workers)

Replace clause 15B with:

15B Part applies to relevant workers

- (1) This Part applies to a person (**a relevant worker**) who—
- (a) is required by the Air Border Order to be isolated or quarantined in accordance with this order; and
- (b) is ordinarily resident in New Zealand; and
- (c) is any of the following:
- (i) a relevant crew member;

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- (ii) a relevant medical attendant;
- (iii) a Police escort.
- (2) However, this Part does not apply to the extent provided in clauses 15DA and 15DB.
- (3) In this Part,—
- Air Border Order** means the COVID-19 Public Health Response (Air Border) Order (No 2) 2020
- Police escort** means a Police escort to whom clause 18 of the Air Border Order applies (duties in connection with extradition to or deportation from New Zealand)
- relevant crew member** means an aircrew member who—
- (a) travelled on a higher-risk route (within the meaning of the Air Border Order) within the 7 days immediately before their arrival by air in New Zealand; or
 - (b) on arrival by air in New Zealand, was returning from a period of flight simulator training in Australia that is not available in New Zealand
- relevant medical attendant** means a person who, on arrival by air in New Zealand,—
- (a) was assisting, as a medical attendant, with a medical air transfer to New Zealand; or
 - (b) was returning from assisting, as a medical attendant, with a medical air transfer from New Zealand.

15 Clause 15C amended (Requirement to notify Ministry of Health)

In clause 15C(1), after “departing”, insert “from”.

16 New clauses 15DA to 15DC inserted

After clause 15D, insert:

15DA Part 1 applies if relevant worker had high risk of exposure to COVID-19

- (1) A relevant worker who is determined to have had a high risk of exposure to COVID-19 during their most recent absence from New Zealand is, on their arrival in New Zealand by air, subject to Part 1 (isolation and quarantine) rather than this Part.
- (2) A relevant worker is determined to have had a high risk of exposure to COVID-19 during their most recent absence from New Zealand if—
 - (a) a medical officer of health has assessed that there is a high risk that, during that absence, the worker has been exposed to COVID-19; and
 - (b) that assessment was made by the medical officer of health no earlier than 7 days before the relevant worker’s arrival by air in New Zealand.

15DB Other circumstances in which Part 1 applies

Relevant crew members

- (1) A relevant crew member is subject to Part 1 rather than this Part if they—
 - (a) were outside New Zealand for a continuous period of at least 7 days immediately before arriving in New Zealand by air; or
 - (b) have travelled domestically outside New Zealand within the 7 days immediately before that arrival (*see* clause 24 of the Air Border Order).
- (2) A relevant crew member **travels domestically outside New Zealand** if—
 - (a) they travel by aircraft on a domestic route in a country outside New Zealand; and
 - (b) there are other persons travelling on the aircraft who are not—
 - (i) the pilot or a co-pilot of the aircraft; or
 - (ii) a person who works as a pilot, co-pilot, or flight attendant for the same airline as the aircrew member.

Relevant workers

- (3) A relevant worker is subject to Part 1 (isolation and quarantine) rather than this Part if a suitably qualified health practitioner responsible for the medical examination and testing of the worker under clause 8(2) of the Air Border Order is not satisfied that the worker is at a low risk of having or transmitting COVID-19 (*see* clause 21 of the Air Border Order).
- (4) A relevant worker is subject to Part 1 rather than this Part if a medical officer of health determines (on the basis of information brought to that officer's attention) that there are reasonable grounds to believe that, within the 7 days immediately before arriving in New Zealand by air and while outside New Zealand, the worker has failed to meet 1 or more of the relevant key safety standards (*see* clause 25 of the Air Border Order).

15DC Key safety standards

The **key safety standards**, for a relevant crew member, a relevant medical attendant, or a Police escort, are set out in the relevant part of Schedule 2.

17 Clause 15G amended (Leaving place of self-isolation)

After clause 15G(a), insert:

- (ab) to do any outdoor exercise (except at any shared exercise facility, such as a swimming pool); or

18 New Schedule 2 inserted

After Schedule 1, insert the Schedule 2 set out in the Schedule of this order.

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Isolation and Quarantine) Amendment Order (No 2)**

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Part 3
Consequential amendment

**19 Consequential amendment to COVID-19 Public Health Response
(Maritime Border) Order (No 2) 2020**

- (1) This clause amends the COVID-19 Public Health Response (Maritime Border) Order (No 2) 2020.
- (2) In clause 4, replace the definition of **exempt crew member** with:
exempt crew member means a crew member who is exempt from the requirement to comply with clause 8 of the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 because of an exemption made by or under that order

PROACTIVELY RELEASED

Schedule

New Schedule 2 inserted into COVID-19 Public Health Response (Isolation and Quarantine) Order 2020

cl 18

Schedule 2 Key safety standards

cl 15DC

Part 1 Relevant crew members

1 Interpretation

In this Part,—

dedicated relaxation area, at the accommodation where a relevant crew member is staying,—

- (a) means any place while it is set aside for the exclusive use of pilots, co-pilots, or flight attendants of the airline for which the crew member works; but
- (b) does not include a restaurant, cafe, bar, or shared exercise facility

fellow worker, of a relevant crew member, means a person who works as a pilot, co-pilot, or flight attendant for the same airline as the crew member

specified place, at the accommodation where a relevant crew member is staying, means—

- (a) the crew member's allocated room; or
- (b) the allocated room of a fellow worker of the crew member; or
- (c) a dedicated relaxation area.

2 Personal protective equipment

It is a key safety standard for a relevant crew member that, while outside New Zealand, they wear personal protective equipment at all times (to the greatest extent practicable) while at any place other than—

- (a) the cockpit of an aircraft; or
- (b) a place on an aircraft that is set aside for operating crew to rest, or take breaks, away from passengers; or
- (c) an aircraft on which the only other persons are—
 - (i) the pilot or co-pilot of that aircraft; or
 - (ii) fellow workers of the crew member; or

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- (d) a specified place at any accommodation where they are staying; or
- (e) a place in Australia where they are undertaking flight simulator training that is not available in New Zealand.

3 Physical distancing

It is a key safety standard for a relevant crew member that, while outside New Zealand, they maintain physical distancing from all other persons (to the greatest extent practicable) other than—

- (a) persons on an aircraft on which the crew member is travelling; or
- (b) fellow workers of the crew member; or
- (c) persons at any place in Australia where the crew member is undertaking flight simulator training that is not available in New Zealand.

4 Remaining airside

- (1) It is a key safety standard for a relevant crew member who arrives in a country outside New Zealand by air that, until they depart from the country, they remain on the airside of—
 - (a) the airport at which they arrive in that country; and
 - (b) any other airport through which they transit in that country.
- (2) However, that key safety standard applies to the relevant crew member only if they—
 - (a) are not staying in any accommodation before departing from the country; or
 - (b) are staying in accommodation on the airside of an airport before departing from the country.

5 Travel to accommodation or flight simulator training

- (1) It is a key safety standard for a relevant crew member that, as soon as practicable after arriving in a country outside New Zealand, they travel as directly as practicable to—
 - (a) any accommodation where they are staying; or
 - (b) any place where they are undertaking flight simulator training.
- (2) It is a key safety standard for a relevant crew member that, if undertaking flight simulator training in a country outside New Zealand, they travel as directly as practicable between—
 - (a) any accommodation where they are staying; and
 - (b) any place where they are required to travel to undertake the training.

6 Isolation at accommodation

- (1) It is a key safety standard for a relevant crew member that they do not leave their allocated room at any accommodation where they are staying in a country outside New Zealand except—
- (a) to preserve or protect their own or another person’s life, health, or safety in an emergency; or
 - (b) to access medical services; or
 - (c) to collect food from a place at the accommodation; or
 - (d) to exercise at the accommodation (except at any shared exercise facility at the accommodation, such as a swimming pool or gym); or
 - (e) to visit a specified place at the accommodation; or
 - (f) to travel from the accommodation to a place where they are undertaking flight simulator training; or
 - (g) to travel from the accommodation to an aircraft—
 - (i) that is scheduled for departure; and
 - (ii) that the airline for which they work directs them to travel on.
- (2) It is a key safety standard for a relevant crew member that, while at any accommodation where they are staying in a country outside New Zealand, they do not permit any other person to enter their room except—
- (a) a person entering for medical, emergency, or law enforcement purposes; or
 - (b) a fellow worker of the crew member.

Part 2

Medical attendants

7 Interpretation

In this Part,—

dedicated relaxation area, at the accommodation where a relevant medical attendant is staying,—

- (a) means any place while it is set aside for the exclusive use of medical attendants; but
- (b) does not include a restaurant, cafe, bar, or shared exercise facility

fellow medical attendant, of a relevant medical attendant, means a person who works as a medical attendant alongside the relevant medical attendant

specified place, at the accommodation where a relevant medical attendant is staying, means—

- (a) the medical attendant’s allocated room; or

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- (b) the allocated room of a fellow medical attendant; or
- (c) a dedicated relaxation area.

8 Personal protective equipment

It is a key safety standard for a relevant medical attendant that, while outside New Zealand, they wear personal protective equipment at all times (to the greatest extent practicable) while at any place (other than a specified place at any accommodation where the medical attendant is staying).

9 Physical distancing

It is a key safety standard for a relevant medical attendant that, while outside New Zealand, they maintain physical distancing from all other persons (to the greatest extent practicable) other than—

- (a) persons on an aircraft on which the medical attendant is travelling; or
- (b) fellow medical attendants; or
- (c) other persons during the course of the medical attendant’s work.

10 Remaining airside

- (1) It is a key safety standard for a relevant medical attendant who arrives in a country outside New Zealand by air that, until they depart from the country, they remain on the airside of—
 - (a) the airport at which they arrive in that country; and
 - (b) any other airport through which they transit in that country.
- (2) However, that key safety standard applies to the relevant medical attendant only if they—
 - (a) are not staying in any accommodation before departing from the country; or
 - (b) are staying in accommodation on the airside of an airport before departing from the country.

11 Travel after arrival

It is a key safety standard for a relevant medical attendant that, as soon as practicable after arriving in a country outside New Zealand, they travel as directly as practicable to—

- (a) any accommodation where they are staying; or
- (b) any place in the course of their work as a medical attendant.

12 Isolation at accommodation

- (1) It is a key safety standard for a relevant medical attendant that they do not leave their allocated room at any accommodation where they are staying in a country outside New Zealand except—

- (a) to preserve or protect their own or another person's life, health, or safety in an emergency; or
 - (b) to access medical services; or
 - (c) to collect food from a place at the accommodation; or
 - (d) to exercise at the accommodation (except at any shared exercise facility at the accommodation, such as a swimming pool or gym); or
 - (e) to visit a specified place at the accommodation; or
 - (f) to travel from the accommodation to any place in the course of their work as a medical attendant; or
 - (g) to travel from the accommodation to an aircraft that is scheduled for departure.
- (2) It is a key safety standard for a relevant medical attendant that, while at any accommodation where they are staying in a country outside New Zealand, they do not permit any other person to enter their allocated room except—
- (a) a person entering for medical, emergency, or law enforcement purposes; or
 - (b) a fellow medical attendant.

Part 3 **Police escorts**

13 Interpretation

In this Part,—

dedicated relaxation area, at the accommodation where a Police escort is staying,—

- (a) means any place while it is set aside for the exclusive use of members of the New Zealand Police; but
- (b) does not include a restaurant, cafe, bar, or shared exercise facility

fellow member of the New Zealand Police, of a Police escort, means a member of the New Zealand Police who works alongside the Police escort

specified place, at the accommodation where a Police escort is staying, means—

- (a) the Police escort's allocated room; or
- (b) the allocated room of a fellow member of the New Zealand Police who is staying at the accommodation in the course of official duties; or
- (c) a dedicated relaxation area.

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14 Personal protective equipment

It is a key safety standard for a Police escort that, while outside New Zealand, they wear personal protective equipment at all times (to the greatest extent practicable) while at any place (other than a specified place at any accommodation where the Police escort is staying).

15 Physical distancing

It is a key safety standard for a Police escort that, while outside New Zealand, they maintain physical distancing from all other persons (to the greatest extent practicable) other than—

- (a) persons on an aircraft on which the Police escort is travelling; or
- (b) fellow members of the New Zealand Police; or
- (c) other persons during the course of the Police escort’s work.

16 Remaining airside

- (1) It is a key safety standard for a Police escort who arrives in a country outside New Zealand by air that, until they depart from the country, they remain on the airside of—
 - (a) the airport at which they arrive in that country; and
 - (b) any other airport through which they transit in that country.
- (2) However, that key safety standard applies to the Police escort only if they—
 - (a) are not staying in any accommodation before departing from the country; or
 - (b) are staying in accommodation on the airside of an airport before departing from the country.

17 Travel after arrival

It is a key safety standard for a Police escort that, as soon as practicable after arriving in a country outside New Zealand, they travel as directly as practicable to—

- (a) any accommodation where they are staying; or
- (b) any place in the course of their work as a Police escort.

18 Isolation at accommodation

- (1) It is a key safety standard for a Police escort that they do not leave their allocated room at any accommodation where they are staying in a country outside New Zealand except—
 - (a) to preserve or protect their own or another person’s life, health, or safety in an emergency; or
 - (b) to access medical services; or

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Explanatory note

- (c) to collect food from a place at the accommodation; or
- (d) to exercise at the accommodation (except at any shared exercise facility at the accommodation, such as a swimming pool or gym); or
- (e) to visit a specified place at the accommodation; or
- (f) to travel from the accommodation to any place in the course of their work as a Police escort; or
- (g) to travel from the accommodation to an aircraft that is scheduled for departure.
- (2) It is a key safety standard for a Police escort that, while at any accommodation where they are staying in a country outside New Zealand, they do not permit any other person to enter their allocated room except—
- (a) a person entering for medical, emergency, or law enforcement purposes; or
- (b) a fellow member of the New Zealand Police who is staying at the accommodation in the course of official duties.

December
Dated at Wellington this 17th day of 2020.



Minister for COVID-19 Response.

Explanatory note

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

This order, which comes into force at 11.59 pm on 23 December 2020, amends the following orders:

- the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 (the **Air Border Order**);
- the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020 (the **Isolation and Quarantine Order**);
- the COVID-19 Public Health Response (Maritime Border) Order (No 2) 2020.

This order must be approved by a resolution of the House of Representatives before the end of the relevant period described in section 16(2) of the COVID-19 Public Health Response Act 2020. If that does not happen, the order is revoked at the end of that period.

Part 1

Amendments to COVID-19 Public Health Response (Air Border) Order (No 2) 2020

Part 1 amends the Air Border Order.

Clause 7 replaces Part 3 of the Air Border order, which provides for exemptions from obligations that clause 8 of that order imposes on persons arriving in New Zealand by air. *New Part 3* provides for the following additional exemptions and matters relating to those arrivals:

- all arrivals (not only transit passengers) are exempt from clause 8 if they remain on the airside of the airport at which they arrive in New Zealand, and any other airport through which they transit, until they depart from New Zealand (*new clause 10*):
- certain arrivals from Antarctica are generally exempt from clause 8 (*new clause 13*):
- arrivals on aircraft that depart from New Zealand without landing in a place outside New Zealand (for example, an aircraft required to return to New Zealand because of a mechanical fault) are generally exempt from clause 8 (*new clause 14*):
- the following arrivals are exempt from the requirement to have a confirmed allocation in the managed isolation allocation system (including those who, because of amendments to the Isolation and Quarantine Order made by *Part 2*, may be required to enter a managed isolation or quarantine facility (an **MIQF**)):
 - medical attendants (*new clause 17*):
 - members of the New Zealand Police who are escorting persons extradited to New Zealand, or are returning after escorting deportees from New Zealand (*new clause 18*):
 - aircrew members (**specified aircrew members**) who are ordinarily resident in New Zealand (*new clause 20*):
- specified aircrew members will be exempt from the requirement to be isolated or quarantined in accordance with the Isolation and Quarantine Order only if a suitably qualified health practitioner is satisfied that the member is at a low risk of having or transmitting COVID-19 (*new clause 21*):
- specified aircrew members will generally not be exempt from the requirement to be isolated or quarantined in accordance with the Isolation and Quarantine Order in any of the following circumstances:
 - they are returning from a period of flight simulator training in a country outside New Zealand (*new clause 23*):
 - they were outside New Zealand for a continuous period of at least 7 days immediately before their arrival in New Zealand (*new clause 24(1)(a)*):

- they have travelled by aircraft on a domestic route outside New Zealand within the 7 days immediately before their arrival in New Zealand (*new clause 24(1)(b) and (2)*):
- the Director-General of Health may exempt any person or class of persons arriving in New Zealand for the purposes of assisting in the response to an emergency in respect of which a state of emergency is declared (*new clause 27*).

Part 1 also makes the following amendments to the Air Border Order:

- the definition of aircrew member is replaced and expanded to include a person who is not identified as a crew member on the crew manifest on which they arrive in New Zealand but is on the aircraft at the direction of an airline for which they work as a pilot, co-pilot, or flight attendant (for example, off-duty crew returning to New Zealand after working on an outbound service) (*clause 4(1)*):
- clause 8 is amended to require persons arriving in New Zealand by air whose place of isolation or quarantine is an MIQF to travel from the airport to the MIQF in accordance with the directions of the chief executive of the Ministry of Business, Innovation, and Employment (*clause 6(2)*).

Minor and consequential amendments are also made.

Part 2

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

Part 2 amends the Isolation and Quarantine Order.

Amendments relating to Part 1A

The main amendments are made to Part 1A of the Isolation and Quarantine Order (*clauses 14 to 17*). That Part requires relevant workers who are ordinarily resident in New Zealand, and required by the Air Border Order to isolate or quarantine, to self-isolate at accommodation notified to the Ministry of Health as their place of self-isolation.

Clause 14 replaces clause 15B of the Isolation and Quarantine Order, which states the persons (**relevant workers**) to whom Part 1A of that order generally applies. Relevant workers generally go into self-isolation rather than an MIQF. The changes are that—

- the definition of relevant worker is expanded to cover members of the New Zealand Police carrying out extradition or deportation escort duties; and
- the definition of relevant crew member is expanded to include a person who, on arrival by air in New Zealand, was returning from a period of flight simulator training in Australia that is not available in New Zealand.

Clause 16 inserts *new clauses 15DA to 15DC* into the Isolation and Quarantine Order.

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New clause 15DA provides that a relevant worker who is determined to have had a high risk of exposure to COVID-19 during their most recent absence from New Zealand is subject to Part 1 of that order and must go to an MIQF rather than self-isolate. The assessment will be carried out by a medical officer of health no earlier than 7 days before the relevant worker's arrival by air in New Zealand.

New clause 15DB provides that Part 1 of the Isolation and Quarantine Order may also apply to relevant crew members and relevant workers in other circumstances. Those circumstances are that—

- a suitably qualified health practitioner responsible for the medical examination and testing of the relevant worker under clause 8(2) of the Air Border Order is not satisfied that the worker is at a low risk of having or transmitting COVID-19 (*see new clause 21* of the Air Border Order); or
- the relevant crew member was outside New Zealand for a continuous period of at least 7 days or travelled domestically outside New Zealand within the 7 days immediately before their arrival in New Zealand (*see new clause 24* of the Air Border Order); or
- a medical officer of health determines (on the basis of information brought to that officer's attention) that there are reasonable grounds to believe that, within the 7 days immediately before arriving in New Zealand by air and while outside New Zealand, the relevant worker has failed to meet 1 or more of the relevant key safety standards (*see new clause 25* of the Air Border Order).

New clause 15DC provides that the key safety standards for a relevant crew member, a relevant medical attendant, or a Police escort (as referred to in *new clause 15DB*) are those set out in *new Schedule 2*.

Clause 17 amends clause 15G to permit a relevant worker to leave a place of self-isolation to do outdoor exercise (except at a shared facility).

Other amendments made by Part 2

Part 2 also makes the following amendments to the Isolation and Quarantine Order:

- *clause 9(1)* replaces the definition of aircrew member so that it matches the definition inserted in the Air Border Order by *clause 4(1)*:
- *clause 12* amends clause 12 of the Isolation and Quarantine Order to ensure that relevant individual and operational implications, and a person's particular physical or other needs, are considered in determining whether the person's place of isolation or quarantine can be some place other than an MIQF;
- *clause 13* amends clause 13 of the Isolation and Quarantine Order to require persons leaving an MIQF under that clause to comply with any directions of, or conditions imposed by, the chief executive of the Ministry of Business, Innovation, and Employment;
- *clause 18* inserts *new Schedule 2* (the key safety standards).

Minor and consequential amendments are also made.

Part 3

Consequential amendment

Part 3 makes a consequential amendment to the COVID-19 Public Health Response (Maritime Border) Order (No 2) 2020.

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*:

This order is administered by the Ministry of Health.

PROACTIVELY RELEASED

Appendix 2: Minor technical amendments

There are several other minor technical amendments to the Orders, outlined in the table below.

Issue description	Relevant Order	Amendment
There are no enforcement measures or penalties available if returnees deliberately abscond from transport to and/or from a managed isolation and quarantine facility.	Air Border Order (clause 6(2))	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.
The Chief Executive (CE) 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 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)	<p>Include the ability for the CE of MBIE to impose conditions, such as wearing PPE or social distancing from others, to align with other exemption clauses.</p> <p>This reflects the policy intent of the original Order. The CE will be required to impose conditions based on public health advice.</p>

Appendix 3: Question and response

Question from the Prime Minister's Office

"On Amendment 3 with regard to requirements for self-isolation on overseas layovers, the rationale makes sense, but I'm interested in how we're going to monitor to ensure we haven't meaningfully increased the risk. I'm concerned about hotel restaurants in downtown LA.

- Could MOH clarify whether the intention is that crew would be able to eat in the hotel restaurant?
- Could MOH advise whether a drafting change is needed to clarify the intent – and if it is, could you confirm you've got this underway?"

Response from the Ministry of Health

- The draft Amendment Order is already clear that crew are not permitted to use any common areas in the hotel, such as restaurants. They may leave their rooms to 'collect' food, but may not eat their food outside of their rooms. 'Specified areas' that crew can go specifically excludes hotel restaurants.
- Guidance will be used to very clearly outline the expectations for aircrew (this kind of detail cannot go into the Order).
- Under the draft Amendment Order, aircrew must access food from within the hotel in all destinations, e.g. room service, contactless delivery (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 they are not permitted to leave the hotel to access food.