

# Briefing

## Air Border Order: Consequential changes to exemption notices

**Date due to MO:** 28 April 2021 **Action required by:** 28 April 2021

**Security level:** IN CONFIDENCE **Health Report number:** 20210976

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

**Copy to:** Rt Hon Jacinda Adern, Prime Minister  
Hon Grant Robertson, Deputy Prime Minister  
Hon Nanaia Mahuta, Minister of Foreign Affairs  
Hon Michael Wood, Minister of Transport

### Contact for telephone discussion

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

### Minister's office to complete:

- |   |                                    |  |
|---|------------------------------------|--|
| <input type="checkbox"/> Approved             | <input type="checkbox"/> Decline   | <input type="checkbox"/> Noted               |
| <input type="checkbox"/> Needs change         | <input type="checkbox"/> Seen      | <input type="checkbox"/> Overtaken by events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn |  |

Comment:

# Air Border Order: Consequential changes to exemption notices

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**Security level:** IN CONFIDENCE

**Date:** 28 April 2021

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

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## Purpose of report

1. Two exemption notices require updating following recent amendments to the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 (Air Border Order). This report discloses all relevant information and implications.

## Background

2. The Air Border Order imposes obligations on persons arriving in New Zealand by air, including for medical examination and testing for COVID-19, and for the commencement of managed isolation and quarantine.
3. Under the authority granted to you by the Air Border Order, you have exempted some persons from the standard requirements for pre-departure COVID-19 testing (PDT) before arriving in New Zealand. These include arrivals:
  - a. from countries where the risk of transmission of COVID-19 to New Zealand is low (currently Antarctica, Australia and several Pacific Island countries)
  - b. from countries that do not have adequate COVID-19 testing procedures (these persons are required to obtain a certificate from a medical practitioner instead) – see Attachment 1.
  - c. air crew members who have a negative COVID-19 test result or a certificate from a medical practitioner, received no more than seven days before arriving in New Zealand- see Attachment 2.
4. On 16 April 2021 you signed an amendment to the Air Border Order to facilitate two-way quarantine-free travel between Australia and New Zealand. The amendment to the Air Border Order included minor and technical amendments to terms that now need to be incorporated in the exemption notices for arrivals from countries that do not have adequate testing procedures (b. above) and aircrew (c. above).
5. The mechanism for making these changes is to revoke the current exemptions and grant new exemptions. Notices to give effect to these changes are attached for your signature.
6. The consequential changes that are required are:
  - a. to replace the term 'specified person' with 'medical practitioner', as it relates to the medical examination and certification of air crew members arriving in New Zealand

- b. to replace the term 'suitably qualified health practitioner' with 'medical practitioner' and clarify the starting point of a 'multi-leg journey' to New Zealand, as they relate to the medical certification of arrivals from countries that do not have adequate PDT.

## Statutory basis for exemptions

- 7. The Air Border Order specifies the requirements you must meet before making an exemption. These include that you may grant an exemption only if you are satisfied that:
  - a. the exemption is necessary or desirable in order to promote the purposes of the COVID-19 Public Health Response Act 2020 (the Act) or the Air Border Order; and
  - b. the extent of the exemption is not broader than is reasonably necessary to address the matters giving rise to the exemption.
- 8. The changes we are recommending you make to the current exemptions are not substantive. There are no associated public health considerations.
- 9. Our assessment is that the exemptions are necessary and desirable to promote the stated purposes of the Act and the Air Border Order by ensuring consistency across the legislative framework that underpins the Act and the Order. The changes to the exemptions are no broader than necessary to achieve consistency with the Air Border Order.

## Equity

- 10. The changes to the current exemptions do not have material equity impacts.

## New Zealand Bill of Rights Act

- 11. The exemption discretion must be exercised consistently with the New Zealand Bill of Rights Act 1990 (NZBORA). The changes to the current exemptions are minor and technical and do not have material NZBORA impacts.

## Proposed actions

- 12. Notices to revoke and replace the current exemptions are attached to this report for your signature. The exemptions will come into effect at 11.59pm on 30 April 2021.

## Next steps

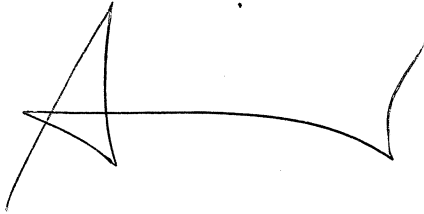
- 13. Once you have signed the notices, we will publish them in the *New Zealand Gazette* and on the *Unite Against COVID-19* website.

## Recommendations

We recommend you:

- a) **Note** that the amendment to the COVID-19 Public Health (Air Border) Order (No 2) 2020, signed by you on 16 April 2021, included minor and technical amendments to some terms that require consequential changes to exemption notices. **Noted**

- b) **Agree** to make consequential changes to notices that exempt arriving air crew, and arrivals from countries that do not have adequate COVID-19 testing procedures, from standard pre-departure COVID-19 testing and examination requirements. **Yes/No**
- c) **Sign** the attached exemption notices, which revoke and replace the current exemptions. **Yes/No**
- (d) **Note** that the exemptions will come into force at 11.59pm on 30 April 2021 **Noted** after the notices have been published in the *New Zealand Gazette*.



Dr Ashley Bloomfield  
**Director-General of Health**

Date: 27/4/21



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

Date: 30/4/21

ENDS.

## **Attachment 1**

Exemption from PDT requirements for persons travelling from countries with inadequate testing procedures

### **Exemption of Persons from clause 8(2B) of the COVID-19 Public Health Response Air Border) Order (No 2) 2020**

Pursuant to clause 26 of the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 ("Order"), I, Hon Chris Hipkins, Minister for COVID-19 Response, having taken into account the advice of the Director-General of Health, declare that the following class of persons is exempt from clause 8(2B) of the Order (being the pre-departure testing requirements):

Persons who arrive in New Zealand by air if their journey to New Zealand began (or is taken by clause 8(4AA) of the Order to have begun) from one of the following places:

- Albania
- Belize
- Dominica
- Kenya
- Laos
- Montenegro
- Myanmar
- Slovenia
- St Kitts and Nevis
- St Vincent and the Grenadines
- Tajikistan
- Turkmenistan.

This exemption is subject to the following conditions:

1. a person subject to the exemption must obtain a certificate from a medical practitioner (as defined in clause 4(1) of the Order) no more than 72 hours before their journey to New Zealand began (or is taken by clause 8(4AA) to have begun) confirming they do not have symptoms which indicate that they are likely to transmit COVID-19; and
2. the person must produce this certificate when requested by 1 or more of the following:
  - a. a health protection officer;
  - b. a staff member or representative of the relevant air carrier;
  - c. an immigration officer; or
  - d. an enforcement officer;

3. the person must be transferred as soon as practicable to an MIQF for Day 0/1 COVID-19 testing once the necessary border entry procedures have been completed after the person's arrival in New Zealand

The exemption will begin at 11.59pm on 5 May April 2021.

The Exemption of Persons from Clause 8(2B) of the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 (Gazette Notice No 2021-go222) is revoked.

Dated at Wellington this 30<sup>th</sup> day of ~~May~~

*April*



HON CHRIS HIPKINS, Minister for COVID-19 Response.

PROACTIVELY RELEASED

## **Attachment 2**

Exemption from PDT requirements for air crew arriving in New Zealand

### **Exemption of Persons from clause 8(2B) of the COVID-19 Public Health Response (Air Border) Order (No 2) 2020**

Pursuant to clause 26 of the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 ("Order"), I, Hon Chris Hipkins, Minister for COVID-19 Response, having taken into account the advice of the Director-General of Health, declare that the following persons are exempt from clause 8(2B) of the Order (being the pre-departure testing requirements):

Persons who arrive in New Zealand as aircrew members and are not ordinarily resident in New Zealand

An aircrew member is defined in the Order, as meaning any person who:

1. is identified as a crew member on the crew manifest for the aircraft on which they arrive in New Zealand; or
2. 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;

This exemption is subject to the following conditions:

1. a person subject to this exemption must have:
  - a. a negative result from a COVID-19 test (as defined in clause 8(5) of the Order and as specified by the Director-General of Health) administered no more than 7 days immediately before the person's arrival in New Zealand; or
  - b. a certificate that verifies that the person
    - i. was examined by a medical practitioner (as defined in clause 4(1) of the Order) no more than 7 days immediately before the person's arrival in New Zealand; and
    - ii. was determined to have particular physical or other needs that made it inappropriate for the person to undergo a COVID-19 test; and
    - iii. did not exhibit symptoms of COVID-19; or
  - c. in the case of a positive result from a COVID-19 test administered no more than 7 days immediately before the person's arrival in New Zealand, a

certificate that verifies that a medical practitioner (as defined in clause 4(1) of the Order) considers that the person is no longer infectious; and

2. a person subject to this exemption must produce evidence of the result of that COVID-19 test or certificate if requested by 1 or more of the following:
  - b. a health protection officer:
  - c. an immigration officer:
  - d. an enforcement officer.

The exemption will begin at 11.59pm on 5 May 2021.

The Exemption of Persons from Clause 8(2B) of the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 (Gazette Notice No 2021-go341) is revoked.

Dated at Wellington this 30<sup>th</sup> day of ~~May~~ <sup>April</sup> 2021.



HON CHRIS HIPKINS, Minister for COVID-19 Response.