

Briefing

Travel exemption for Royal Australian Air Force

Date due to MO: 15 June 2021 **Action required by:** 17 June 2021

Security level: IN CONFIDENCE **Health Report number:** 20211336

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

Copy to: Hon Michael Wood, Minister of Transport

Contact for telephone discussion

Name	Position	Telephone
Dr Ashley Bloomfield	Director-General of Health Te Tumu Whakarae mō te Hauora	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 Withdrawn | |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:

Travel exemption for Royal Australian Air Force

Security level: IN CONFIDENCE **Date:** 15 June 2021

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

Purpose of report

1. This briefing recommends that you grant an exemption from certain requirements in the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 (the Air Border Order), to allow the Royal Australian Air Force (RAAF) to travel to New Zealand quarantine-free on Monday 21 June 2021. The purpose of travel is to conduct a flight training programme.
2. This report discloses all relevant information and implications.

Summary

3. Trans-Tasman two-way quarantine-free travel (TT-QFT) commenced at 11:59pm on 18 April 2021, as confirmed by Cabinet on 6 April 2021 [CAB-21-MIN-0101]. To facilitate TT-QFT, the Air Border Order specifies countries from which people may travel quarantine-free (QFT places), the airlines that can operate quarantine-free flights (QFT carriers) and the airports at which these flights may land (QFT ports).
4. The RAAF is scheduled to fly a defence force aircraft from Edinburgh, South Australia, to the Royal New Zealand Air Force (RNZAF) Base Whenuapai on Monday 21 June 2021 to conduct a flight training programme. However, as the proposed flight does not meet the definition of QFT flight in the Air Border Order, the passengers and crew on the flight will be required to meet the obligations in the Air Border Order for allocation of a place in a managed isolation or quarantine facility (MIQF) and entry into a MIQF on arrival in New Zealand. The Australian High Commission has requested an exemption from the MIQF requirements.
5. Officials have assessed the exemption request from a public health perspective and conclude that the risk of transmission of COVID-19 posed by granting the exemption is low. The passengers and crew on the flight will be required to meet conditions aligned with the TT-QFT eligibility requirements, for example, being in Australia for at least 14 days and being symptom-free, prior to travelling to New Zealand.
6. I recommend that you exempt the crew and passengers travelling on the RAAF flight from the MIQF requirements in the Air Border Order so that they can travel to New Zealand to conduct the flight training programme.

Recommendations

We recommend you:

- a) **Note** that two-way trans-Tasman quarantine-free travel (QFT) with Australia commenced at 11:59pm on 18 April 2021. **Noted**
- b) **Note** that the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 (Air Border Order) specifies the places, airlines and airports that are authorised to participate in QFT with Australia. **Noted**
- c) **Note** that a Royal Australian Air Force (RAAF) aircraft is scheduled to travel to the Royal New Zealand Air Force (RNZAF) Base Whenuapai on Monday 21 June 2021 to conduct a flight training programme. **Noted**
- d) **Note** that the proposed flight does not meet the definition of QFT flight in the Air Border Order and the passengers and crew on the flight cannot travel quarantine-free to New Zealand unless they are granted an exemption. **Noted**
- e) **Note** that clause 26 of the Air Border Order authorises you to exempt any person or class of persons from the requirement to comply with any provision of the Order. **Noted**
- f) **Note** that I consider that an exemption for the crew and passengers on the RAAF flight, with appropriate conditions, presents a low risk of transmission of COVID-19 in the community and I recommend that an exemption be granted. **Noted**
- g) **Agree** to grant an exemption, with the conditions set out in the attached notice, from the specified provisions of clause 8 of the Air Border Order for the crew and passengers arriving on RAAF aircraft, call sign ASY188, at RNZAF Base Whenuapai at or around 4:00pm on Monday 21 June 2021. **Yes/No**
- h) **Sign** the attached notice giving effect to the proposed exemption. **Yes/No**
- i) **Note** that, if you agree to the exemption, it will come into force at 11.59pm on Sunday 20 June 2021. **Noted**



Dr Ashley Bloomfield

Director-General of Health

Te Tumu Whakarae mō te Hauora

Date: 15/06/2021

Hon Chris Hipkins

Minister for COVID-19 Response

Date:

Travel exemption for Royal Australian Air Force

Background and context

7. Trans-Tasman Quarantine Free Travel (TT-QFT) commenced at 11:59pm on 18 April 2021, as confirmed by Cabinet on 6 April 2021 [CAB-21-MIN-0101]. To facilitate TT-QFT, the Air Border Order specifies the places, airlines and airports that are authorised to participate in QFT. The current airlines designated for TT-QFT are Air New Zealand, Qantas, Jetstar and Air Chathams.
8. The RAAF is scheduled to fly a defence force aircraft from Edinburgh, South Australia, to RNZAF Base Whenuapai on Monday 21 June 2021 to conduct a flight training programme. However, as the RAAF is not a QFT carrier and Base Whenuapai is not a QFT port, the proposed flight does not meet the definition of QFT flight under the Air Border Order. This means that, subject to any exemptions that apply, or are made, the passengers and crew on the flight will be required to meet the obligations in the Air Border Order for allocation of a place and entry into a MIQF on arrival in New Zealand.
9. The Australian High Commission has requested an exemption from the MIQF requirements for seven defence force personnel (crew and passengers) traveling on the aircraft, call sign ASY188, arriving at RNZAF Base Whenuapai at or around 4:00pm on Monday 21 June 2021.

Statutory power to grant an exemption

10. The Air Border Order provides that you may grant an exemption from the provisions of the Order 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
 - b. the extent of the exemption is not broader than is reasonably necessary to address the matters giving rise to the exemption.¹

When deciding whether to grant an exemption and what (if any) conditions to impose on the exemption, you must take into account my advice on the public health implications.²

¹ Clause 26(1)

² Clauses 26(2) and (3)

The proposed exemption promotes the purposes of the Act and the Air Border Order

11. The purpose of the Act is to support a public health response to COVID-19 that:
 - a. prevents, and limits the risk of, the outbreak or spread of COVID-19 (taking into account the infectious nature and potential for asymptomatic transmission of COVID-19)
 - b. avoids, mitigates, or remedies the actual or potential adverse effects of the COVID-19 outbreak (whether direct or indirect)
 - c. is co-ordinated, orderly, and proportionate
 - d. allows social, economic, and other factors to be taken into account where it is relevant to do so
 - e. is economically sustainable and allows for the recovery of MIQF costs
 - f. has enforceable measures, in addition to the relevant voluntary measures and public health and other guidance that also support that response.
12. The purpose of the Air Border Order is “to prevent, and limit the risk of, the outbreak or spread of COVID-19 by imposing certain requirements on persons arriving in New Zealand by air (including medical examination and testing for COVID-19, and commencement of isolation and quarantining, as soon as is reasonably practicable after arriving in New Zealand).”

Preventing and limiting the Spread of COVID-19 and the adverse effects of an outbreak

13. A public health risk assessment has been undertaken to evaluate whether exempting the RAAF personnel will lead to an unacceptable risk of transmission of COVID-19.
14. Despite recent outbreaks of COVID-19 in Victoria and New South Wales, Australia is considered a low-risk country and, as of the date of this briefing, South Australia is not experiencing community transmission. There is no QFT pause in place for travel from South Australia to New Zealand.
15. The RAAF has confirmed in advance that the flight will travel direct from Edinburgh, South Australia, to RNZAF Base Whenuapai in Auckland. No passengers or crew will have travelled outside Australia in the 14 days prior to travel, or been in Victoria since the pause in travel from Victoria or in any locations of interest in Victoria, New South Wales, or Queensland, or any other locations of interest identified in Australia prior to their departure.
16. Appropriate personal protection equipment (PPE) will be used on the flight. On arrival at RNZAF Base Whenuapai, health screening will be undertaken by New Zealand Defence Force medical personnel, including reviewing health declarations, temperature checking at least 20 percent of the arriving personnel, and secondary health assessments as required.
17. The main COVID-19 exposure risk from travel between Australia and New Zealand is if there is exposure to new arrivals from other countries that may be infectious with COVID-19, either at the border or within a MIQF, or through undetected community transmission.

As the aircraft travelling to New Zealand is not a commercial flight, is using a different terminal in Australia than that used by new arrivals from non-QFT destinations, and no one travelling on the flight will have been outside Australia in the past 14 days, I consider that the chances that the personnel may be exposed to COVID-19 is low. Any residual risk can be managed by imposing conditions on the exemption, based on the eligibility requirements for TT QFT passengers that would apply if the flight was a QFT flight. The conditions that we propose be applied in this case are set out below.

Conditions of the exemption

18. I recommend that you impose conditions that the RAAF personnel:
- a. have not been in a country other than New Zealand or Australia in the past 14 days
 - b. have not been to any COVID-19 places of interest or hot-spots in relation to any current community cases in the last 14 days
 - c. have not had a positive result from a COVID-19 test during the past 14 days, or if they have had a positive result, have a certificate from a medical practitioner verifying that the infection is historical and the person is no longer infectious with COVID-19
 - d. are not awaiting the results of a test for COVID-19 that they have undergone during the last 14 days
 - e. have not been identified as a close or casual contact of any COVID-19 cases
 - f. are not experiencing symptoms of COVID-19 at the time of departure.

Taking into account social and economic factors

19. This exemption allows the RNZAF and the RAAF the opportunity to continue working together as defence partners supporting economic security in the Pacific region.

Other purposes under the COVID-19 Act

20. The exemption is proposed on a basis that is proportionate, based on the risk profile of the RAAF personnel. The proposal includes enforceable measures, in that the RAAF personnel may be subject to mandatory isolation or quarantine under section 70 of the Health Act 1956.

The exemption is not broader than reasonably necessary

21. The proposed exemption only applies to the RAAF personnel traveling in the specified aircraft and is no broader than necessary to facilitate travel for the flight training programme.

We conclude the exemption is justified

22. On balance, considering the low-risk of spread of COVID-19 or adverse effects from exempting the RAAF personnel, and the social and economic benefits of the training proceeding, I consider that the exemption is justified.

New Zealand Bill of Rights Act

23. The exemption discretion must be exercised consistently with the New Zealand Bill of Rights Act 1990 (NZBORA).

24. Our assessment is that the exemption lessens the restrictions on freedom of movement that would otherwise be imposed by the Air Border Order. Correspondingly, the conditions that are proposed for the exemptions are reasonable, in that they mirror the obligations imposed on other travellers to New Zealand under the TT-QFT scheme on commercial aircraft, which we have assessed are a justified limitation on the rights and freedoms affirmed under the NZBORA.

Proposed actions

25. A notice to give effect to the exemption is attached to this briefing for your signature. We invite you to sign the exemption notice before 4:00pm on Wednesday 16 June 2021, so that the notice can be published in the *New Zealand Gazette* within its processing timeframes. The exemption will come into force at 11.59pm on Sunday 20 June 2021.

Equity

26. The exemption has no material equity impacts.

Next steps

27. If you agree to sign the notice, the Ministry of Foreign Affairs and Trade will advise the Australian High Commission in Wellington in writing that the exemption has been granted and the Ministry will publish the notice in the *New Zealand Gazette* and on the *Unite Against COVID-19* website.
28. As the exemption is not in relation to a QFT flight, the requirements for Ministerial consultation on exemptions in the Air Border Order do not apply³.

ENDS.

³ Clause 26(3A).

Exemption of persons from clause 8(2A), (2B) and (3) to (4) of the COVID-19 Public Health Response (Air Border) Order (No 2) 2020

1. Pursuant to clause 26 of the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 (**the 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(2A), (2B) and (3) to (4) of the Order:

Passengers and aircrew arriving in New Zealand on aircraft ASY188 on Monday 21 June who:

- i. are not already subject to an exemption from clause 8 of the Order, pursuant to clause 11; and
- ii. have not been in any country other than New Zealand or Australia in the 14 days immediately prior to their departure for New Zealand (**the relevant 14-day period**); and
- iii. have not been to any area in Australia which is identified by an Australian public health authority as a COVID-19 outbreak location, during the relevant 14-day period; and
- iv. have either:
 - (a) not had a positive result from a test for COVID-19 during the relevant 14-day period; or
 - (b) had a positive result from a test for COVID-19 during the relevant 14-day period and they have a certificate from a medical practitioner verifying that the medical practitioner is of the opinion that this is an historical infection and the person is no longer infectious with COVID-19; and
- v. are not awaiting the results of a test for COVID-19 that they have undergone during the relevant 14-day period; and
- vi. are not subject to a relevant direction or advice from a suitably qualified health practitioner or official of an Australian public health authority to undergo a test for COVID-19 or isolate from others; and
- vii. do not have any of the following symptoms:

- (a) a new or worsening cough;
- (b) a sore throat;
- (c) shortness of breath;
- (d) a runny nose;
- (e) a loss of sense of smell;
- (f) a fever; or

a suitably qualified health practitioner has certified, on the basis of the symptoms the person is experiencing, that the person should not be required to isolate or quarantine; and

2. For the purposes of this instrument:

- i. **medical practitioner** means a person who is registered or licensed in Australia as a health professional equivalent to a medical practitioner
- ii. **official of an Australian public health authority** includes a person who is engaged by an Australian public health authority
- iii. **relevant direction or advice** —
 - (a) means a direction under an Australian law; and
 - (b) includes a direction or advice from a suitably qualified health practitioner, or an official of an Australian public health authority
- iv. **suitably qualified health practitioner** means a person who is registered or licensed in Australia as a health professional equivalent to a suitably qualified health practitioner

3. The exemption will begin at 11.59 on Sunday 20 June 2021.

Dated at Wellington this ____ day of June 2021

Hon Chris Hipkins
Minister for COVID-19 Response