

Briefing

Exemption from managed isolation and quarantine requirements for UK-licensed crew operating cargo flights for Tasman Cargo Airlines

Date due to MO:	24 June 2021	Action required by:	24 June 2021
Security level:	IN CONFIDENCE	Health Report number:	HR20211380
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)
Steve Waldegrave	Group Manager, COVID-19 Policy, 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 Withdrawn | |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:

Exemption from managed isolation and quarantine requirements for UK-licensed crew operating cargo flights for Tasman Cargo Airlines

Security level: IN CONFIDENCE **Date:** 24 June 2021

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

Purpose of report

1. The briefing recommends you grant an exemption from the managed isolation and quarantine (MIQ) requirements in the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 (the Air Border Order), to allow 15 aircrew and engineers on cargo flights operated by Tasman Cargo Airlines (TCA) to travel between Sydney and Auckland quarantine-free from Friday 25 June 2021 to Thursday 22 July 2021.
2. This report discloses all relevant information and implications.

Summary


3. TCA operates a daily return air cargo service between Sydney and Auckland. As part of this operation, TCA transports weekly shipments of the Pfizer COVID-19 vaccine to New Zealand.
4. The aircrew currently working for TCA are New Zealand-based and 'ordinarily resident in New Zealand', meaning they are exempt from the MIQ requirements in the Air Border Order.
5. The aircraft used for TCA's trans-Tasman operation requires servicing, scheduled to take place over a period of four weeks in June and July 2021. During this period, the aircraft will be replaced by a leased UK-licensed aircraft. UK civil aviation regulations require the aircraft to be flown and maintained by UK-licensed aircrew and engineers.
6. The UK-licensed aircrew and engineers are not exempt from the MIQ requirements in the Air Border Order. Without an exemption, the aircrew will be required to enter a MIQ facility between flights and the engineers will be required to undertake a mandatory 14-day stay in a MIQ facility. TCA advises that this makes the trans-Tasman cargo operation unfeasible.
7. Officials have assessed the exemption request from a public health perspective, noting that quarantine-free travel (QFT) with New Souths Wales was paused on Tuesday 22 June 2021 due to an outbreak of COVID-19 in Sydney's eastern suburbs. I conclude that the risk of transmission of COVID-19 posed by granting the exemption is low.
8. The UK-licensed crew are currently in Australia and have undertaken 14 days managed isolation. They will also be required to meet conditions aligned with QFT eligibility

requirements before travelling to New Zealand and during the four weeks of the interim operation. The crew are fully vaccinated and will remain airside on all flights from Auckland to Sydney. They will also undergo the same seven-day COVID-19 surveillance testing as Air New Zealand and Qantas crews currently operating cargo flights between Australia and New Zealand during the pause in QFT with New South Wales.

9. I recommend that you exempt the UK-licensed aircrew and engineers operating TCA flights from the MIQ requirements in the Air Border Order so that the cargo operation can continue while TCA's aircraft is maintained.

Recommendations

We recommend you:

- a) **Note** that Tasman Cargo Airlines (TCA) operates a daily return trans-Tasman air cargo service between Sydney and Auckland, including weekly shipments of the Pfizer COVID-219 vaccine.
- b) **Note** that TCA's usual aircrew are New Zealand-based crew who are 'ordinarily resident in New Zealand' and are exempt from the managed isolation and quarantine requirements in the Covid-19 Public Health Response (Air Border) Order (No 2) 2020 (Air Border Order).
- c) **Note** that because TCA's trans-Tasman aircraft requires servicing over a period of four weeks in June and July the usual New Zealand-based crew will be replaced by UK-licensed aircrew and engineers.
- d) **Note** that the UK-licensed aircrew and engineers are subject to the managed isolation and quarantine requirements in the Air Border Order.
- 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.
- f) **Note** that on Tuesday 22 June 2021, quarantine-free travel between New Zealand and New South Wales was paused due to an outbreak of COVID-19 in Sydney's eastern suburbs.
- g) **Note** that the-UK licensed aircrew and engineers are fully vaccinated, will remain airside on all flights to Sydney and will undergo COVID-19 surveillance testing every seven days, meeting the same requirements as Qantas and Air New Zealand crew continuing to operate cargo flights during the pause in quarantine-free travel with New South Wales.
- h) **Note** I consider that an exemption from the managed isolation and quarantine requirements for the UK-licensed aircrew and engineers, with appropriate conditions, presents a low risk of transmission of COVID-19 in the community and I recommend that an exemption be granted.
- i) **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 15 aircrew and engineers arriving in Auckland on a B763F aircraft registration G-DHLF, from Friday 25 June 2021 to Thursday 22 July 2021. 

j) **Sign** the attached notice giving effect to the proposed exemption.

Yes/No

k) **Note** that, if you agree to the exemption, it will come into force at 11:59pm on Thursday, 24 June 2021.



Dr Ashley Bloomfield

Te Tumu Whakarae mō te Hauora

Director-General of Health

Date: 24/06/2021



Hon Chris Hipkins

Minister for COVID-19 Response

Date: 24/7/2021

PROACTIVELY RELEASED

Exemption from managed isolation and quarantine requirements for UK-licensed crew operating cargo flights for Tasman Cargo Airlines

Background

10. TCA currently operates a daily return air cargo service between Sydney and Auckland. As part of this operation, TCA transports weekly shipments of the Pfizer COVID-19 vaccine to New Zealand.
11. TCA's crew are New Zealand-based and are 'ordinarily resident in New Zealand'. As such, they meet the definition of 'specified aircrew member' in the Air Border Order and are exempt from the MIQ requirements in the Order.
12. The aircraft currently used for TCA's trans-Tasman operation requires servicing in Singapore over a period of four weeks in June and July 2021. To continue its air cargo operation during that period, TCA has leased a replacement UK-licensed aircraft. Operating the aircraft over a period of four weeks will require 15 crew (10 aircrew and 5 ground engineers).
13. Under UK civil aviation regulations, the UK-licensed aircraft can only be operated and maintained by UK-licensed aircrew and engineers. The UK-licensed aircrew and engineers are not exempt from the MIQ requirements in the Air Border Order as they are not 'ordinarily resident in New Zealand' and do not meet the definition of 'specified aircrew member'.
14. Without an exemption, the air crew will be required to enter a MIQ facility on arrival in New Zealand until they depart New Zealand again. In many cases this will be a daily turnaround. In addition, the engineers will be required to undertake a mandatory 14-day stay in a MIQ facility. TCA advises that this makes the trans-Tasman cargo operation unfeasible.

Statutory power to grant an exemption

15. 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

¹ Clause 26(1)

16. 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

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

17. 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.
18. 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

19. A public health risk assessment has been undertaken to evaluate whether exempting the UK-licensed aircrew and engineers will lead to an unacceptable risk of transmission of COVID-19, noting that QFT between New Zealand and New South Wales was paused on Tuesday 22 June 2021 due to an outbreak of COVID-19 in Sydney's eastern suburbs.
20. The proposed UK-licensed crew (aircrew and engineers) that will operate TCA's trans-Tasman operation arrived in Australia in early May and underwent 14 days MIQ in the Howard Springs facility in Darwin, Northern Territory. The engineers are currently based in Darwin and the aircrew are currently operating cargo flights between Darwin, Melbourne and Singapore. On the Singapore leg the crew remain airside and do not leave the aircraft.
21. The following public health measures are in place to protect the crew from exposure to COVID-19 in Australia and transmission in New Zealand:
- a. crew are currently operating under a COVID Management Plan approved by the Northern Territory state government

² Clauses 26(2) and (3)

- b. during their secondment to TCA, the UK-licensed crew will be governed by TCA's approved COVID Safety Management Plan, which meets all New Zealand and Australian Government requirements and key safety standards
 - c. all crew have been fully vaccinated
 - d. all crew have been PCR tested every seven days since arriving in Darwin and no crew will be awaiting test results before commencing travel to New Zealand
 - e. the crew will be subject to surveillance testing every seven days for the duration of their stay in New Zealand, meeting the same requirement as Qantas and Air New Zealand crew continuing to operate cargo flight during the pause in QFT with New South Wales.
 - f. the crew will operate exclusively between Auckland and Sydney each day and will remain airside in Sydney.
22. 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 MIQ facility, or through undetected community transmission.
23. Despite recent cases of COVID-19 in Victoria, Queensland and the current outbreak in New South Wales leading to a pause in QFT, Australia is considered a low-risk country and, as of the date of this briefing, Northern Territory is not experiencing community transmission.
24. TCA has confirmed in advance that no crew will have travelled outside Australia in the 14 days prior to travel (except for the travel leg to Singapore where the crew remain airside), or been in Victoria since the pause in travel from Victoria or in any locations of interest in Victoria, ACT, New South Wales, or Queensland, or any other locations of interest identified in Australia in the 14 days prior to their departure.
25. Appropriate personal protection equipment (PPE) will be used on the flight. On arrival at Auckland Airport after each daily flight, health screening will be undertaken, including reviewing health declarations, temperature checking at least 20 percent of the arriving personnel, and secondary health assessments as required.
26. As the aircraft is not undertaking commercial flights, and TCA has advised that no one travelling on the flights will have been outside Australia (except for the travel leg to Singapore where the crew remain airside) in the past 14 days, I consider that the chances that the crew 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 that would apply if the flights were QFT flights. The conditions that we propose be applied in this case are set out below.

Conditions of the exemption

27. I recommend that you impose conditions that the TCA personnel:
- a. have not been in a country other than New Zealand or Australia (except while remaining airside on flights to Singapore) in the past 14 days
 - b. have not been to any COVID-19 places of interest in relation to any current community cases in Australia during 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

- 28. This exemption allows TCA to continue daily cargo flight services between Australia and New Zealand. This includes a weekly shipment of Pfizer vaccines to New Zealand which will be deployed under the NZ COVID-19 Vaccine Strategy.

Other purposes under the COVID-19 Act

- 29. The proposed exemption appears to be proportionate based on the risk profile of the TCA personnel. The proposal includes enforceable measures, in that the TCA 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

- 30. The proposed exemption only applies to TCA personnel travelling on the specified aircraft and is no broader than necessary to facilitate travel for the cargo operation.

We conclude the exemption is justified

- 31. On balance, considering the low-risk of spread of COVID-19 or adverse effects from exempting the TCA personnel, and the economic and health benefits of continuing cargo operations, I consider that the exemption is justified.

The exemption discretion must be exercised consistently with the New Zealand Bill of Rights 1990

- 32. 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 QFT scheme on commercial aircraft, which we have assessed are a justified limitation on the rights and freedoms affirmed under the New Zealand Bill of Rights 1990.

Once the exemption is granted, we will publish the notice on the New Zealand Gazette

- 33. 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 Thursday 24 June 2021, so that the notice can be published in the *New Zealand Gazette* and the exemption can come into force at 11.59pm on 24 June 2021.

Equity

34. The exemption has no equity impacts.

Next steps

35. If you agree to sign the notice (attached as Appendix One), officials will advise TCA 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.
36. 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.

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³ Clause 26(3A).

Appendix One

Exemption Notice

**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**

PROACTIVELY RELEASED

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:

Aircrew and engineers contracted by Tasman Cargo Airlines for trans-Tasman cargo flights between Sydney, Australia and Auckland, New Zealand, arriving in New Zealand on aircraft B763F, registration G-DHLF, from Friday 25 June until Thursday 22 July 2021 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 (except while remaining airside in Singapore) 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.

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 11.59pm on Thursday 24 June 2021.

Dated at Wellington this 24th day of June 2021



Hon Chris Hipkins

Minister for COVID-19 Response

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