



# Briefing

## ALERT LEVEL REQUIREMENTS AMENDMENT ORDER FOR SIGNING – 18 NOV 21

To Minister for COVID-19 Response (Hon Chris Hipkins)			
Date	17/11/2021	Priority	URGENT
Deadline	18/09/2021	Briefing Number	DPMC-2021/22-849

### Purpose

Attached to this briefing is the proposed COVID-19 Public Health Response (Air Border) Order (No 2) Amendment Order (No 13) 2021, which we recommend that you sign. This order makes two minor corrective amendments to the Air Border Order (ABO) following recent changes to vaccination requirements and quarantine-free travel (QFT) settings.


This briefing summarises the effect of the amendments and confirms that the necessary procedural requirements for the making of COVID-19 Orders have been complied with.

### Recommendations

1. **Note** that this brief provides a summary of the key provisions of the proposed order
2. **Note** that the necessary procedural requirements for the making of COVID-19 Orders have been complied with


3. **Sign** the COVID-19 Public Health Response (Air Border) Order (No 2) Amendment Order (No 13) 2021 (Signature Copy) (**Attachment A**)

**YES** NO



Alice Hume  
**Manager, Strategy and Policy, COVID-19 Group, DPMC**

17/11/2021



Hon Chris Hipkins  
**Minister for COVID-9 Response**

17/11/2021

**Contact for telephone discussion if required:**

Name	Position	Telephone	1st contact
Alice Hume	Policy Manager, COVID-19 Group, DPMC	s9(2)(a)	
Matt McGrath	Senior Solicitor, DPMC	s9(2)(a)	✓

**Minister's office comments:**

- Noted
- Seen
- Approved
- Needs change
- Withdrawn
- Not seen by Minister
- Overtaken by events
- Referred to

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## Summary of the Amendments

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*Removing the requirement for New Zealand-domiciled international aircrew to provide evidence of vaccination*

1. Currently, New Zealand-domiciled aircrew (who are not New Zealand citizens) are subject to both the Vaccines Order and the new ABO requirement to be vaccinated upon arrival in New Zealand. This creates an additional burden on such aircrew to have and present evidence at the border. There is no benefit to this additional evidential burden, as there is existing assurance through the Vaccines Order requirements that all such personnel are vaccinated.
2. Accordingly, this amendment would provide that New Zealand-domiciled aircrew not be required to present evidence of their vaccination status upon arrival in New Zealand.

*Ensuring that international aircrew who fail to meet QFT pre-requisites are able to crew QFT flights (but not enter New Zealand quarantine-free)*

3. The decision that international aircrew on QFT flights would be required to undertake a test 72-hours prior to departure and to have not visited a non-QFT country since taking the test proceeded on the basis that “if the aircrew cannot meet this requirement ... then they will be required to remain airside or to enter managed isolation until they departure from New Zealand” [HR 20212362 refers].
4. However, this position appears to have overlooked the ABO requirement that airlines are not permitted to carry personnel on a QFT flight that do not comply with the relevant pre-requisites, including this testing requirement for aircrew. Accordingly, rather than having to remain airside or enter MIQ, such aircrew are effectively excluded from crewing QFT flights.
5. This amendment order provides that the relevant prerequisite should apply only in respect of aircrew who will enter New Zealand upon arrival. This will mean that if international aircrew meet the prerequisite, then they will be able to enter New Zealand without entering MIQ. If they do not meet it, then they can still crew an aircraft, but must either remain airside or enter MIQ upon entering New Zealand.

## Procedural Requirements for a COVID-19 Order

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6. This proposed Order amends a COVID-19 Order, which you can do pursuant to sections 11 and 15 of the COVID-19 Public Health Response Act 2020 (The Act). The Act imposes certain requirements for the form, publication and making of COVID-19 Orders. You must be sure that these requirements have been complied with before making a COVID-19 Order.

### *48 Hour Notification Period*

7. The Act requires that a COVID-19 Order must be published and gazetted at least 48 hours before it comes into force. However, this notice period is not required to be observed where you are satisfied that the Order should come into force urgently to prevent or contain the

outbreak or spread of COVID-19 or where the effect of the Order is only to remove or reduce requirements imposed by a COVID-19 Order.

- 8. In this case, the proposed amendments only relax restrictions. Accordingly, the 48-hour notice period need not be observed.

*Ministerial Consultation*

- 9. The Act requires that before making a COVID-19 order, you must consult with the Prime Minister, the Minister of Justice and the Minister of Health. You may also consult with any other Minister you think fit.
- 10. A summary of these amendments was provided to your office. We understand that your office has undertaken the required consultation and that this requirement has therefore been complied with.

*Public Health Advice*

- 11. The Act requires that before making a COVID-19 order, you must have had regard to advice from the Director-General of Health about the risks of the outbreak or spread of COVID-19 and the nature and extent of measures (whether voluntary or enforceable) that are appropriate to address those risks.
- 12. Public Health advice was provided to inform the policy decisions for the respective positions on vaccine requirements at the border and quarantine-free travel. These amendments do not depart from those policy decisions. The Ministry of Health has been involved in the progress of these amendments, and agrees that they are consistent with the extant public health advice in respect of the appropriate border settings. We therefore consider that this requirement has been complied with.

*New Zealand Bill of Rights Act 1990*

- 13. The Act also requires that you are satisfied that an order under section 11 of the Act does not limit, or is a justified limit, on the rights and freedoms in the New Zealand Bill of Rights Act 1990 (NZBORA).
- 14. s9(2)(h) [Redacted]

<b>Attachments:</b>	
<b>Attachment A:</b>	COVID-19 Public Health Response (Air Border) Order (No 2) Amendment Order (No 13) 2021 (Signature Copy)