

Briefing

EXTENDING THE WINDOW FOR GREEN RETURN FLIGHTS FROM AUSTRALIA

To Acting Minister for COVID-19 Response (Hon Dr Ayesha Verrall)

Date	29/07/2021	Priority	URGENT
Deadline	30/07/2021	Briefing Number	DPMC-2021/22-46


Purpose

This briefing provides advice on whether the window for green return flights from Australia should be extended following Cabinet's decision to suspend quarantine free travel (QFT). It recommends that an extension is not necessary at this time but seeks agreement in principle to how additional one-off green flights could be enabled if required.


Recommendations

- Note** that as at 1:30pm on 28 July 2021 there are sufficient seats available on flights from Australia to New Zealand (excluding New South Wales) to enable all people who travelled to Australia under QFT arrangements to return to New Zealand before the window for return green flights closes at 11:59pm on Friday 30 July 2021. ✓
- Note** that an amendment to the Air Border Order and the Exemptions and Conditions for Quarantine Free Travel Notice will be required to give effect to the decision to suspend Quarantine Free Travel from Australia. ✓
- Note** that amendments to the Air Border Order and Exemption Notice and the revocation will be provided to you for signature on Friday 30 July. ✓
- Agree** to consult with the Prime Minister, Deputy Prime Minister, Minister of Transport, Minister of Foreign Affairs, Minister of Health, Minister of Justice and Minister of Immigration on the proposal to amend the Order and Notice in advance on the basis of this briefing. YES / NO
- Note** the Director-General of Health's advice that if required the window for return green flights could be extended until 6 August without concern of additional risk. ✓

- 6. **Agree** not to extend the window for return green flights beyond 11:59pm on 30 July at this time. YES / NO
- 7. **Note** that if demand for return flights from Australia exceeds the number of seats available before 11:59pm on 30 July, provision for one-off flights from Australia could be agreed with airlines, and these could be legally enabled as quarantine-free flights. ✓
- 8. **Note** with the suspension of QFT with Australia all aircrew on trans-Tasman flights will be subject to the COVID-19 Public Health Response (Vaccinations) Order 2021 and will have to have had their first vaccination by 30 September, and that there are some pilots who do not wish to be vaccinated. ✓


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 COVID-19 Group

29/7/21


 Hon Dr Ayesha Verrall
 Acting Minister for COVID-19 Response

29/7/21

Contact for telephone discussion if required:

Name	Position	Telephone	1st contact
Ruth Fairhall	Head of Strategy and Policy, COVID-19 Group	s9(2)(a)	✓
Sam Willis	Senior Policy Advisor	N/A	N/A

Minister's office comments:

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

EXTENDING THE WINDOW FOR GREEN ZONE FLIGHTS FROM AUSTRALIA

Background

1. On 22 July Cabinet:
 - a) agreed to suspend QFT from Australia in response to the increasing public health risk of COVID-19 outbreaks across a number of states;
 - b) agreed to allow a seven-day window for travellers in Australia (excluding New South Wales) who are "ordinarily resident" in New Zealand to return on green flights from 11:59pm 23 July until 11:59pm 30 July 2021; and
 - c) noted the Director-General of Health's advice that the period for return flights could be extended to ensure that all eligible New Zealanders are able to return [CAB-21-MIN-0288 refers].

All eligible travellers should be able to return to New Zealand within the current green zone window

There is currently airline capacity to allow all eligible travellers to return to New Zealand

2. The Ministry of Transport and border agencies have been working closely with airlines to understand the demand for return green flights.
3. As at 1:30pm on Wednesday 28 July, since the pause took effect (at 11:59pm on Friday 23 July):
 - a) there have been 5,293 travellers return to New Zealand from Australia on green flights;
 - b) 6,962 travellers have booked to return between 28 and 30 July 2021; and
 - c) there are 3,860 spaces remaining on green flights between 28 and 30 July, with capacity across all the key Australian states.
4. Airlines have advised that capacity will continue to be available on flights from Australia until 30 July (excluding New South Wales). They report that demand has stabilised and cancellations are outweighing new bookings. Airlines have now cancelled flights from 31 July and customers are being formally advised; this has not created any significant spike in demand.
5. Airlines are closely monitoring demand and are putting on additional capacity where required (e.g. Qantas flights ex-Brisbane) and reducing and consolidating flights where demand is low (e.g. Qantas/Jetstar flights ex-Melbourne). As at 28 July, between 28-30 July there are approximately 1,800 seats available on flights from Queensland, and approximately 1,700 seats available from Victoria (all subject to change as flights are consolidated). Perth capacity had been identified as particularly constrained. Some

capacity has now opened up on flights from Perth as people have cancelled their flights. Travellers also have the option to transit via other ports in Australia.

We consider that all eligible travellers should be able to return to New Zealand within the current green zone window

6. Based on current airline capacity we consider all eligible travellers should be able to return to New Zealand in the current window for green flights that closes at 11:59pm on 30 July.

7. Section 9(2)(ba)(i)

8. We therefore recommend that the green zone window is not extended.

There may be some travellers that are still not able to return to New Zealand within the green zone window

9. Despite there being sufficient airline capacity within the green zone window, there are a range of reasons why travellers may not be able to return to New Zealand within the green window. These include:

- a) not meeting the eligibility criteria for return green flights for reasons outside their control (e.g. having been in a location of interest; close contacts; having had positive COVID-19 test; or those who have COVID-19 symptoms)
- b) not meeting pre-departure testing or other conditions for quarantine-free travel, meaning they are denied boarding (particularly on Friday 30 July, where opportunities to get a new test will be limited)
- c) for whatever reason, not understanding that green flights are to be suspended and missing the opportunity to travel.

10. Officials understand that concerns raised about issues in passengers accessing pre-departure tests, including in Cairns, have largely been resolved. Airlines have also advised that they are not aware of any constraints in travellers getting the appropriate pre-departure tests.

If flights need to be extended beyond 30 July additional one-off flights could be considered

11. If demand for green flights increases significantly over the remainder of the window for green flights and airlines are unable to meet demand, there may be a need to consider extending green flights beyond 30 July to ensure that all eligible New Zealanders are able to return.

12. If this transpires, we recommend that agencies work with airlines to agree on a limited number of one-off green flights to meet this demand, and that the COVID-19 Public Health Response (Exemptions and Conditions for Quarantine-free Travel) Notice 2021 be amended to enable those one-off flights to occur as quarantine-free flights.
13. These flights could be scheduled to allow plenty of time for airlines to make all necessary arrangements for airport slots and crew requirements, and to give remaining travellers the best opportunity to book their pre-departure tests and make arrangement to fly. We expect that demand would only be sufficient for airlines to operate out of one port, e.g. Melbourne or Brisbane; and if additional flights were not commercially viable, airlines might request government funding support.
14. Further advice will be provided on enabling additional flights to meet additional demand, if it materialises.
15. We recommend no announcement be made about this possibility to encourage people to make bookings within the current window for green flights.

The public health advice is that additional flights could be facilitated if required

16. The Director-General of Health advises that from a public health perspective he is comfortable with extending the window for return green flights beyond 30 July until 6 August 2021 without concern of additional risk.
17. Specific public health advice would be provided in relation to any proposal to make legal provision for one-off return green flights after 30 July.

Suspension of QFT with Australia means New Zealand-domiciled aircrew on trans-Tasman flights must now be vaccinated

Air crew on QFT flights are not are not subject to mandatory testing or vaccination requirements

18. Under the Vaccination and Required Testing Orders, New Zealand domiciled air crew or other aviation workers which only operate or interact with QFT flights are not subject to mandatory testing or vaccination requirements, due to the low risk of QFT flights.

Following the QFT suspension, air crew on Trans-Tasman flights will be subject to mandatory testing and vaccination requirements

19. The COVID-19 Public Health Response (Vaccinations) Order 2021 (Vaccination Order) came into force on 1 May 2021, and requires that specified roles, which involve higher-risk work, only be undertaken by vaccinated people. On 14 July 2021, the scope of the Vaccination Order was expanded.
20. With the suspension of QFT with Australia, New Zealand-domiciled air crew on any future trans-Tasman flights will now be subject to the COVID-19 Public Health Response (Vaccinations) Order 2021 (Vaccination Order) as they will be working on what will

effectively be red flights.¹ Under the Vaccination Order, these crew would have to have their first vaccination by 30 September.

21. Whilst aviation stakeholders have (in most cases) relatively high vaccination rates already, the Ministry of Transport advise that a number of pilots have indicated that they will not (at this time) be vaccinated. Up to this point, such pilots have been assigned to domestic and/or QFT duties. Making them now subject to the vaccination order for trans-Tasman flights would remove this redeployment option.
22. The Ministry of Health advise the policy intent of the Vaccination Order is to prevent and limit the risk of the outbreak and spread of COVID-19 by requiring certain workers in high-risk settings to be vaccinated. If aircraft arriving from outside New Zealand are not QFT flights (i.e. are now red flights), then by default it is considered a high-risk setting and relevant aircrew are required to vaccinated. This is consistent with the risk assessment that led to the decision to suspend QFT with Australia. The policy about groups of workers covered by the Vaccination Order is underpinned by previous public health advice for the Required Testing Order. Anyone required or likely to be required in the future to undergo mandatory testing for COVID-19 is now required to be vaccinated to undertake work at the border.

23. Section 9(2)(h)

24. The Ministry of Health has confirmed that the risk for Australia as a whole has not changed since the public health risk assessment was completed on 21 July 2021 that underpinned the decision to suspend QFT. If travellers and aircrew on red flights to New Zealand do not adhere to the strict requirements, these flights could carry a risk of exposure to COVID-19. It is therefore reasonable and necessary to require relevant aircrew on these flights to be vaccinated.

The mandatory testing and vaccination requirements will have an impact on airlines and aircrew

25. Air NZ and Jetstar/Qantas Group New Zealand-domiciled crew, and potentially ground crew, will be affected by this change. The number of workers affected is unknown. The number of red flights that may operate during the suspension period is likely to be limited, as is airlines' ability to crew red flights with vaccinated workers if the mandatory vaccination requirement stays in place. There has been no engagement with Air NZ, Jetstar/Qantas Group, any aviation unions, or other potentially affected groups on this change.

¹ Under the Vaccination Order this includes work carried out by aircrew members in relation to "affected aircraft" (other than an aircraft currently undertaking a QFT flight) that arrives from any location outside New Zealand (e.g. Australia).

- 26. Given the potential temporary nature of the QFT suspension, this could create a situation where these workers become subject to the Vaccination Order for a short period. This could create confusion and uncertainty for employers and affected workers. Should trans-Tasman QFT resume, then these workers might not be working in roles that meet the risk threshold required for mandatory vaccination.
- 27. As affected workers would be required to have their first vaccination by 30 September PCBUs will need to start the process now to assess whether they can continue operations with vaccinated staff, and then (if required) engage with workers to ascertain if they will agree to be vaccinated. They may also need to begin engaging with staff on potential redeployment or redundancy conversations.
- 28. There is an exemption power under the Vaccination Order available where it is necessary to prevent significant supply chain disruption. Officials are able to discuss the implications of the Vaccination Order in further detail, if required.

Human rights

29. Section 9(2)(h)

30.

31.

Next Steps

- 32. We will prepare an amendment to the COVID-19 Public Health Response (Exemptions and Conditions for Quarantine-free Travel) Notice 2021 and the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 for your signature that will end the period in which green return flights can occur at 11:59pm on 30 July. These amendments need to enable aircrew to continue to relocate from Australia to New Zealand after QFT flights from Australia end up until there is no further prospect of one-off green flights. The Order and Notice will be provided to you with a briefing that sets out the consequences of making the amendment including that trans-Tasman flights will no longer be QFT flights and aircrew on future trans-Tasman flights (that will be red flights) will be subject to the Vaccination Order.
- 33. Amendments to the Notice and the Order require consultation with the following Ministers:
 - a) Notice: Prime Minister, Deputy Prime Minister, Minister of Transport and Minister of Foreign Affairs; and
 - b) Order: Prime Minister, Minister of Health and Minister of Justice.

34. You are entitled to consult with any other Minister you consider relevant. In these circumstances, given the potential need for Immigration Instructions to be amended, we recommend that the Minister of Immigration is also consulted.
35. If it emerges that demand for seats on flights from Australia exceeds what is available in the window for return green flights, we will seek your agreement to signing the necessary legislative instruments to make provision for one-off green flights after 30 July.

Consultation

36. The following agencies were consulted in the preparation of this advice: Ministry of Business, Innovation and Employment; Ministry of Foreign Affairs and Trade; Ministry of Health; Ministry for Primary Industries; Ministry of Transport; New Zealand Customs Service; New Zealand Police and Crown Law.

Communications

37. Communications should continue to encourage people to book flights to return to New Zealand before 11:59pm on 30 July and make clear that, based on the availability of options for people to get home, there is no intention to extend this timeframe. We do not recommend announcing that provision for additional flights could be made as this may discourage people from booking green flights in the current window.
38. The Ministry of Transport will manage communications with airlines in relation to the requirement for unvaccinated aircrew who have been flying QFT flights now needing to be vaccinated if they are to be crew on future red flights.
39. A press release has been drafted and provided to your office.