



Briefing

VACCINATION REQUIREMENT FOR NON-CITIZEN TRAVELLERS: AMENDMENTS FOR SIGNING

To: Hon Chris Hipkins
Minister for COVID-19 Response

Date	23/10/2021	Priority	High
Deadline	23/10/2021	Briefing Number	DPMC-2021/22-559

Purpose

This briefing provides you with draft amendments to the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 (Air Border Order) for signing, in response to Cabinet's decision that non-New Zealand citizens travelling to New Zealand should be required to be fully vaccinated (CAB-21-MIN-0403 refers).



Recommendations

1. **Note** that, on 4 October 2021, Cabinet agreed that a requirement should be imposed on all non-New Zealand citizens arriving in New Zealand by air to be fully vaccinated in order to arrive in New Zealand from 1 November 2021, via amendments to the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 (Air Border Order).
2. **Note** that draft amendments have been prepared in accordance with Cabinet's decision-making (**Attachment A**).
3. **Note** that the necessary procedural requirements for the making of COVID-19 Orders have been complied with.
4. **Sign** the COVID-19 Public Health Response (Air Border) Order (No 2) Amendment Order (No 11) 2021 (Signature Copy).

YES / NO

5. **Agree** that this briefing is proactively released, with any appropriate redaction where information would have been withheld under the Official Information Act 1982, following any announcements of a change in policy.

YES / NO

<p>pp </p> <p>Alice Hume Manager, Strategy & Policy, COVID-19 Group</p>	<p></p> <p>Hon Chris Hipkins Minister for COVID-19 Response</p>
<p>23 / 10 / 2021</p>	<p>23/10/2021</p>

Contact for telephone discussion if required:

Name	Position	Telephone	1st contact
Alice Hume	Manager, Strategy & Policy, COVID-19 Group	N/A	✓
James Gallagher	Senior Solicitor	s9(2)(a)	

Minister's office comments:

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- Withdrawn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

VACCINATION REQUIREMENT FOR NON-CITIZEN TRAVELLERS: AMENDMENTS FOR SIGNING

Background

1. On 4 October 2021, Cabinet agreed that a requirement should be imposed on all non-New Zealand citizens arriving in New Zealand by air to be fully vaccinated in order to arrive in New Zealand from 1 November 2021, via amendments to the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 (Air Border Order). Cabinet also agreed to a framework for exemptions, communications, implementation and review (CAB-21-MIN-0403 refers).

Amendments as drafted

2. PCO has prepared draft amendments (**Attachment A**) on the basis of the policy direction by Cabinet, and the Director-General of Health's decision-making on vaccine standards as noted by Cabinet. We note that, if you agree to the draft amendments:
 - 2.1. Anyone arriving in New Zealand from 11:59pm 31 October 2021, will be required to be fully vaccinated and to carry evidence of this.
 - 2.2. Air carriers will be required to not cause an aircraft to arrive in New Zealand unless it has taken reasonable steps to ensure that each person on board the aircraft, apart from a New Zealand citizen, has shown evidence that they are fully vaccinated or exempt.
 - 2.3. Exemptions will apply, as per Cabinet's direction, for New Zealand citizens, children under 17, foreign diplomats, certain Regional Seasonal Employer workers, refugees, and those who are not able to be vaccinated for medical reasons. There will also be a process for exemptions through the Director-General where there are access to the vaccine grounds, or on the grounds that they are travelling with family members who are citizens and have not had the opportunity to be fully vaccinated within the timeframe.
 - 2.4. "Fully vaccinated" will be defined as a full primary course of vaccination with any of the COVID-19 vaccines approved by a government or approval authority, and that the last dose is administered no less than 14 days before the person's arrival. The list of approved vaccines will be published in a Gazette notice by the Director-General so that this can be updated if approvals change.

Clarifications to note

3. As you are aware, several further issues were raised by agencies regarding specific groups that may require additional exemptions. The drafting reflects your agreement that:
 - 3.1. an additional Regional Seasonal Employer workers flight from the Solomon Islands, scheduled for 4 November, should be exempt, subject to the workers having received at least one dose of a COVID-19 vaccine; and

- 3.2. in granting an exemption for people travelling to New Zealand in the Refugee Quota Programme, Cabinet's intent was to exempt anyone of refugee-like status and those being evacuated from Afghanistan.
4. A question was also raised about whether the requirement may capture arrivals from Antarctica, and leave groups stranded. This has been resolved in that clause 13 of the Air Border Order already exempts the relevant groups. This is also consistent with our Antarctic Treaty obligations and the Antarctica Act 1960. Therefore, no changes are required.

Procedural Requirements for a COVID-19 Order

5. 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

6. 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.
7. We consider the 48 hour notification period should not apply in this case. Although some of the requirements do not need to be in force until 1 November, the Director-General's power to process and grant exemptions is needed as soon as possible. The effect of this power is to remove or reduce requirements imposed by a COVID-19 Order and ensure that those eligible for an exemption are able to receive the exemption in time to travel to New Zealand (subject to the operational process).

Ministerial Consultation

8. 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. We understand this consultation has occurred through the Cabinet process.

Public Health Advice

9. There are public health benefits to only vaccinated people arriving in New Zealand via the air border and entering MIQ facilities. Given the decreased transmission risk associated with vaccinated individuals (as compared to non-vaccinated ones), this approach would be expected to reduce the risk of onward transmission of the virus in New Zealand.
10. Requiring non-New Zealand citizens to be vaccinated before arrival would not remove the risk completely but it may reduce the risk. There are, however, a range of existing protections in place, including pre-departure testing, PPE, MIQ rules and procedures, and testing once in MIQ, that help prevent leakage of COVID-19 into the community.

11. As vaccination programmes roll out globally, we assume that the likelihood of arrivals already being vaccinated would continue to increase over time. Increasing requirements linked to vaccination status will encourage international travellers to get vaccinated.

Crown Law Advice – New Zealand Bill of Rights Act 1990 (subject to legal privilege)

s9(2)
(h)

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Next Steps

18. The vaccination requirement was publicly announced on Sunday 3 October. Once you have signed the amendments, they will be published and gazetted.

Consultation

19. PCO has prepared the amendments. DPMC consulted with the following agencies on the drafting of the amendments: the Ministry of Health, Ministry of Business, Innovation and Employment, Ministry of Foreign Affairs and Trade, Ministry of Transport, and the New Zealand Customs Service.

Attachments:	
Attachment A:	Amendments for signing

Proactively Released

Attachment A: Amendments for signing

Proactively Released