



BRIEFING

Request for exemptions from the COVID-19 Public Health Response (Air Border) Order 2020

Date:	21 October	Priority:	Urgent
Security classification:		Tracking number:	2122-1487

Action sought		
	Action sought	Deadline
Hon Chris Hipkins Minister for COVID-19 Response	Agree to grant exemptions from managed isolation and quarantine for two persons from the Cook Islands, who arrived on a Medevac Flight for the birth of their child, who is now in NCIU, using your exemption power under the Air Border Order.	22 October 2021

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
Brigadier Rose King	Head of Managed Isolation and Quarantine	Privacy of natural persons	✓
Privacy of natural persons	Director Legal Services		

Minister's office to complete:

Approved

Declined

Noted

Needs change

Seen

Overtaken by Events

See Minister's Notes

Withdrawn



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Purpose

To seek your agreement to grant exemptions from the COVID-19 Public Health Response (Air Border) Order 2020 (the Order) for two persons from MIQ to be with their new-born, who is in NCIU at North Shore Hospital.

Recommended action

The Ministry of Business, Innovation and Employment recommends that you:

- a **Note** that the Order limits Quarantine Free Travel Flights from Cook Islands to New Zealand online to Air New Zealand Limited.

Noted
- b **Note** that on 18 October 2021 a Medevac flight arrived from Rarotonga, and went from a green flight to a red flight as the flight carrier was not recognised as a quarantine-free approved provider.

Noted
- c **Note** that as a result of this, the then-pregnant patient and her partner have been separated as the husband was transported to MIQ on arrival, while his wife was taken to Hospital and subsequently gave birth and the baby is now in the neonatal intensive care unit (NICU) due to significant health issues. Once discharged from hospital, the wife will also be required to complete MIQ, away from her baby.

Noted
- d **Note** that under clause 26 of the Order, you are able to grant an exemption to the Order if you are satisfied (a) the exemption is necessary or desirable in order to promote the purposes of the Act or the purposes of this order; and (b) the extent of the exemption is not broader than is reasonably necessary to address the matters giving rise to the exemption.

Noted
- e **Note** the persons meet the requirements of the Order in that:
 - a. the relevant Medical Officer of Health has determined allowing an exemption would be a low risk, as they have arrived from the Cook Islands which is currently COVID-19 free, and the flight and transfer should be low risk
 - b. the exemption would be consistent with the Act's purpose of ensuring a proportionate public health response that takes social factors into account
 - c. the exemption is not broader than necessary.

Noted

f **Agree** to grant an exemption under clause 26 for:

- a. Privacy of natural persons
- b. [Redacted]

Yes No
 Yes No

g **Agree** that this briefing is proactively released with appropriate withholdings under the Official Information Act 1982.

Yes No



Brigadier Rose King
Head of MIQ Operations, MIQ
MBIE

21/10/2021



Hon Chris Hipkins
Minister for COVID-19 Response

21 / 10 / 2021

Background

1. Since 6 September 2020, the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 (the Order) has required all persons to enter managed isolation and quarantine (MIQ) facilities unless the flight is a recognised Quarantine Free Travel (QFT) provider. Under the Order, the Minister for COVID-19 Response (the Minister) can grant an exemption under clause 26 of the Order.

A family has been separated from their at-risk newborn because their Medevac flight from Rarotonga is considered a red flight

2. Under the Order, some flights from the Cook Islands and Niue are quarantine free, only scheduled Air New Zealand flights. All other operators, including medical evacuation (Medevac) services are not recognised.
3. On 18 October 2021 a Medevac flight arrived from Rarotonga, and as Medevac is not a QFT carrier, it was not recognised as a green flight. Upon arrival, the pregnant patient was transferred to North Shore Hospital and her partner was transported to Novotel Airport Managed Isolation and Quarantine Facility (MIQF). The patient was being Medevacked over pregnancy related issues, and has since had a C-section, and the baby has been taken to NICU because of ill health. The mother is currently still recovering in hospital, and is expected to be transferred to a MIQF once recovered if an exemption is not granted.
4. Once in MIQ, the new parents have the opportunity to apply for an exemption from MIQ, or for a temporary departure. However, the required public health risk assessment tool would calculate that these travellers are high risk, due to their time in MIQ to date, and therefore they would be unlikely to be granted an exemption, until a significant amount of their 14 days have been completed.

You have the power to exempt people from MIQ under the Order

5. As Minister, clause 26 of the Order allows you to exempt people from MIQ requirements. In order to use this power, you must be satisfied that:
 - a. the exemption is necessary or desirable in order to promote the purposes of the Act or the purposes of this order; and
 - b. the extent of the exemption is not broader than is reasonably necessary to address the matters giving rise to the exemption.
6. Before granting an exemption, you must also take into account the potential for any risk of, the outbreak or spread of COVID-19.

We recommend that you use your authority to grant exemptions under clause 26 for these two persons

We consider that all of the conditions of the exemption are met:

- a. The Medical Officer of Health in Auckland has determined that as the Cook Islands is currently free from COVID-19, the risk to these two persons carrying or transmitting COVID-19 in New Zealand is low.
- b. This exemption from MIQ will promote two of the purposes of the Act:
 - i. That the public health response is proportionate

- ii. That the public health response takes social factors into account.
- c. The high IPC protocols used on Medevac flights provides another layer of protection to public health, and further reduce the risk of any transmission.
- d. By issuing an exemption only to the two parents, the exemption is not broader than reasonably necessary.

Next steps

- 7. If you choose to grant the exemptions, the two people will be released from their requirement to stay in MIQ and will be able to stay with their new-born in NICU.
- 8. Otherwise, the two persons will be required to complete their 14-day MIQ stay, separated from their critically ill new-born.