



## BRIEFING

### Training exemptions for sports teams in managed isolation

<b>Date:</b>	21 January 2022	<b>Priority:</b>	Urgent
<b>Security classification:</b>		<b>Tracking number:</b>	2122-2413

Action sought		
	Action sought	Deadline
Hon Chris Hipkins <b>Minister for COVID-19 Response</b>	<p><b>Note</b> the process for granting training exemptions.</p> <p><b>Indicate</b> your preference on whether exemptions for training purposes should continue given the context of keeping and stamping out Omicron</p> <p><i>And if so,</i></p> <p><b>Agree</b> to sign the exemption notice revoking the notice made on 14 January 2022 and exempting the Indian Women's Cricket Team from the requirement to physically distance.</p> <p><b>Agree</b> to allow MBIE to amend the Isolation and Quarantine Order to provide that a class of relevant persons may leave their rooms in the MIQF or place of self-isolation if permitted by the Minister.</p>	25 January 2022

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
Privacy of natural persons	Manager, Implementation and Regulation Policy	Privacy of natural persons	✓
	Policy Advisor, MIQ		

The following departments/agencies have been consulted
Ministry of Health, Sport New Zealand

Minister's office to complete:

Approved

Declined

Noted

Needs change

Seen

Overtaken by Events

See Minister's Notes

Withdrawn

## Comments



# BRIEFING

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### Purpose

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This briefing seeks your agreement to:

- the overall approach for MIQ settings for exemptions to train while in MIQ in light of Omicron;
- sign a new exemption notice allowing the Indian Women's Cricket Team to be exempt from physical distancing requirements to train under the Isolation and Quarantine Order (2020); and
- a policy decision to amend the Isolation and Quarantine Order (2020) to provide you with the powers to enable both provisions for training exemptions: the requirement to remain in their room at the place of isolation or quarantine, and the requirement to maintain physical distancing.

### Executive summary

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#### *Legal basis of training exemptions*

1. When elite sports teams enter New Zealand, they often seek an exemption to be able to train outside of their MIQ facility during their period of isolation. The two exemptions required for training are:
  - a. the requirement to remain in their room at the place of isolation or quarantine; and
  - b. the requirement to maintain physical distancing.
2. Previously, both of these provisions were included as clauses 8(2) and 8(3) of the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020 (the Order).
3. In November 2021, as part of amendments to the COVID-19 Public Health Response Act 2020 (the Act), clause 8(2) was revoked from the Order and the requirement for a person to remain in their room at the place of isolation or quarantine was moved to section 32P of the Act. The decision-making power was placed with the Chief Executive of the Ministry of Business, Innovation and Employment (MBIE). This was done with the purpose of increasing transparency when decisions are being made.
4. Clause 8(3) - requirement to maintain physical distancing - stayed in the Order, and the decision-making power is with you, as the Minister for the COVID-19 Response. This has resulted in split decision-making powers for training exemptions and past training exemptions being granted on a revoked clause.

#### *Cricket teams will start to arrive soon requiring decisions on training exemptions*

5. We are expecting the arrival of cricket teams for the Cricket World Cup to commence from 26 January. This includes the Indian Women's Cricket Team arriving on 26 January 2022 and the South Africa Men's Team arriving on 4 February 2022 for the Summer Cricket Series.

6. Given the increased risk of Omicron, and the current pressures on the MIQ system, we seek your preference on whether these training exemptions should continue. Public health advice is that exemptions for training would only marginally increase community risk, and that the bigger risk is for the team who may not be able to play due to potential transmission between the team that may occur during training. However, MBIE has concerns that training exemptions may increase capacity needs for quarantine and will also increase pressure on MIQ staff while the MIQ system is under considerable strain.
7. Subject to your decision on whether you would like training exemptions to continue, and given the time constraints on this issue, we have prepared the two separate exemptions required for the Indian Women's Cricket team. Clause 15A of the Order, which exempts the team from clause 8(3) of the Order (the requirement to maintain physical distancing) (**Annex One**) requires your approval. A separate exemption using section 32P has been prepared for the CE's approval.

#### *Future decision making on training exemptions*

8. Legal professional privilege. Given the number of teams arriving in the future, we seek a policy decision to amend the Order from you to place the decision-making power for these exemptions with the Minister.

### **Recommended action**

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

- a **Note** in order for sports teams in MIQ to be able to train they need to be exempt from:
  - a. The requirement to stay in their room; and
  - b. The requirement to physically distance

*Noted*
- b **Note** that the Chief Executive of MBIE can grant an exemption to the requirement to stay in their room under section 32P(1)(a) the COVID-19 Public Health Response Act 2021.
 

*Noted*
- c **Note** that the Minister for COVID-19 Response can grant exemption to the requirement to physically distance using clause 15A of the Public Health Response (Isolation and Quarantine) Order 2020.
 

*Noted*
- d **Note** there are three cricket teams arriving over the next month as part of the Cricket World Cup and Summer Series of Cricket who have sought exemptions from MIQ to train, one of which has been granted on 14 January 2022.
 

*Noted*
- e **Note** public health advice is that exemptions for training would marginally increase community risk, and that the bigger risk is for the team who may not be able to play due to potential transmission between the team that may occur during training.
 

*Noted*
- f **Note** that MIQ is currently managing severe demand for managed isolation and quarantine rooms due to concurrent events [BR2122-2293 refers] and that any increase in cases or close contacts would exacerbate this demand.
 

*Noted*

- g **Note** that any increase in movements within an MIQF or to a designated training facility results in an increased risk (however small) of transmitting undetected Covid-19 either between team members or between team members and staff.  
*Noted*
- h **Note** MBIE's view that any exemptions that lead to an increased likelihood of teams going into quarantine will further exacerbate the already severe capacity problem.  
*Noted*
- i **Indicate** your preference on whether exemptions for training purposes should continue given the pressure on MIQ and in the context of keeping and stamping out Omicron.  
 Yes  No
- j **Note** there is no current clause under the Isolation and Quarantine Order to exempt sports teams from the requirement to stay in their rooms due to clause 8(2) being revoked in November last year as part of the passing of the COVID-19 Amendment Bill.  
*Noted*
- k **Note** that the training exemption granted on 14 January 2022 for the India Women's Cricket Team is incorrect and needs to be reissued.  
*Noted*
- l **Note** that revoking that notice made on 14 January is necessary in order to put the correct powers in place for the Team to leave their rooms under the COVID-19 Public Health Response Act, rather than the Isolation and Quarantine Order.  
*Noted*
- m **Note** the attached s15A exemption notice does two things:
  - Revokes the notice made on 14 January 2022
  - Exempts the Indian Women's Cricket Team from the requirement to physically distance.*Noted*
- n **Agree** to sign the exemption notice revoking the notice made on 14 January 2022 and exempting the Indian Women's Cricket Team from the requirement to physically distance.  
 Agree  Disagree
- o **Note** MBIE will prepare the necessary exemption for the CE to agree that the Team are exempt from the requirement to stay in their rooms.  
*Noted*
- p **Note** that the Isolation and Quarantine Order will need to be amended to provide that a class of relevant persons may leave their rooms in the MIQF or place of self-isolation if permitted by the Minister.  
*Noted*
- q **Agree** to allow MBIE to amend the Isolation and Quarantine Order to provide that a class of relevant persons may leave their rooms in the MIQF or place of self-isolation if permitted by the Minister.  
 Agree  Disagree
- r **Agree** that officials issue drafting instructions to the Parliamentary Counsel Office to draft the required amendments to the COVID-19 Public Health response (Isolation and Quarantine) Order (the Order) 2020 to give effect to the decisions made above.  
 Agree  Disagree
- s **Agree** to consult on this briefing with the Minister for Sport and Recreation.

Agree /  Disagree

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

Agree /  Disagree

Privacy of natural persons

**Manager, MIQ Policy**  
MIQ, MBIE

..... / ..... / .....



Hon Chris Hipkins  
**Minister for COVID-19 Response**

28 / 01 / 2022

## Background

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1. International sports teams for the Cricket World Cup (CWC) and Summer Series of Cricket are arriving in New Zealand from 26 January. These teams are requesting exemptions from the requirement to stay in their rooms and socially distance to be able to train during their stay at a MIQF.
2. This situation raises three issues that we seek your direction on:
  - Issue 1 – general approach to training exemptions in light of Omicron
  - Issue 2 – need a work around for teams arriving imminently
  - Issue 3 – provide a more enduring solution for future decision making on training exemptions.
3. Given the high number of Omicron cases being picked up at the border a decision needs to be made if training exemptions should be granted while there is an increased risk.
4. Previously, the requirement to remain at the place of isolation and the requirement to maintain physical distancing – could be exempt together so teams could train at bespoke training facilities.
5. In November 2021, the COVID-19 Public Health Response Amendment Act 2021 (the Amendment Act) was passed and the requirement to remain at the place of isolation was moved from the Order to the Amendment Act, with powers of exemption given to the Chief Executive of the Ministry of Business, Innovation and Employment. This was done with the purpose of increasing transparency when decisions are being made.
6. The requirement to maintain physical distancing under the Order can still be exempt by the Minister. This has led to a separation of the decision-making powers for exempting sports team for the purposes of training during their stay.

## Impact of the emergence of Omicron on the training exemption

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### *Public Health advice supports the continued granting of training exemptions*

7. Public health advice is that exemptions for training would only marginally increase community risk, and that the bigger risk is for the team who may not be able to play due to potential transmission between the team that may occur in MIQ. In their view exemptions can therefore continue to be considered, taking into account the specifics of the team's proposal and the balance of risk and benefit. This risk/benefit balance would of course change significantly if we have a community Omicron outbreak.

### *MIQ concerns with granting training exemptions*

8. A decision needs to be made to determine whether sports exemptions should be granted in the current context given that there are significant numbers of cases at the border and we are working hard to hold Omicron out of the community.
9. Given the prevalence of the Omicron variant overseas, there is a reasonable chance of someone in one or more of the teams testing positive while in MIQ. If this were to happen, all or part of the exemption could be revoked by the Director General of Health (DG) due to the change in risk profile.
10. If the players return a positive test on day 1 or 3 testing, the risk is lower as they would not have begun training as a team. However, if a player returns a positive test on day 5 or 8 once training has begun, the whole team will be considered close contacts and will be required to stay in managed isolation for longer and/or moved to quarantine.

11. From an MIQ perspective, a positive case emerging amongst a team training together while in isolation would result in serious capacity implications at a time when we are managing severe demand for managed isolation and quarantine rooms due to concurrent events [BR2122-2293].
12. It would also add to the already significant pressures on MIQ staff at a time where we are on heightened alert to keep Omicron out of the community.
13. While MIQ is running at full capacity, with no operational reserve, and with a more transmissible variant such as Omicron, there is higher risk of increased IPC breaches and transmission risk of Omicron into the community. In this context, any exemptions that lead to an increase likelihood of teams going into quarantine, will further exacerbate the already severe capacity problem.

## **If training exemptions continue to be granted, we need a work around for teams arriving imminently**

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14. Under the Act, the Chief Executive of Ministry of Business, Innovation and Employment has a discretionary power to authorise persons in a MIQF to leave their room to do an activity (subject to any conditions).
15. This power, until now, has been exercised primarily for humanitarian reasons (such as letting people with health/medical conditions access more exercise).
16. This discretionary power could be used to authorise the Indian Women's Cricket Team to leave their rooms to train on conditions similar to exemption notices previously given to sports teams.
17. Extending this power to allow for the Indian Cricket Women's Team to train is a novel use of the power. While this does not pose a large risk, it may create expectations for the Chief Executive to exercise this power in this way in the future. However, if a training exemption was to be given, we propose that this power will be used as a one-off for the Indian Cricket Women's Team given the short amount of time until they arrive in New Zealand. The longer-term solution will be to amend the Order to provide for the Minister for COVID-19 Response to allow sports teams to train at facilities while staying in MIQ.

## **Proposed approach for a more enduring way to grant training exemptions in the future**

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18. In addition to the Indian Women's Cricket team, so far the South Africa Men's, and Netherlands teams have also sought training exemptions. A full list of Cricket teams arriving over January – March is set out below.

Cricket World Cup:

<b>Team</b>	<b>Date</b>
Indian Women's Cricket Team	26 January
Bangladesh Women	4 February
South Africa Women	9 February
West Indies Women	10 February
Pakistan	10 February



England Women's	10 February
Australia Women's	10 February

19. Summer Series of Cricket:

Team	Date
South Africa Men's	4 February
Netherlands Men's	TBC March

20. Legal professional privilege [REDACTED]. We propose to amend the Order to provide that a class of relevant persons may leave their rooms in the MIQF or place of self-isolation **if permitted by the Minister for COVID-19 Response**.

21. You would be able to impose any conditions you consider necessary, on advice of the Director-General.

*Proposed amendment*

22. The Minister may only permit those persons to leave their rooms if the Minister is satisfied that:
- a) The permission (together with any conditions) is not inconsistent with the purpose of the Act; and
  - b) The permission is necessary to facilitate a Government-approved event, or a major Government-approved programme, within the meaning of the relevant immigration instructions; and
  - c) The extent of the permission is not broader than is reasonably necessary to facilitate that event or programme.

**Next steps**

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23. We are seeking your decision on whether to continue granting training exemptions in light of Omicron and severe capacity pressures on MIQ.

*Indian women's cricket team training exemption*

24. If you decide that exemptions should continue, then we recommend that you sign the annexed exemption notice relating to the Indian Women's Cricket Team. This notice revokes the previous exemption notice made on 14 January 2022 and replaces it with an updated notice exempting the Team from the requirement to physically distance. We would then prepare for the chief executive authorisation for the Indian Women's Cricket Team to leave their rooms under section 32P(1)(a).

*Future training exemptions*

25. Pending indication on whether exemptions should continue, work will continue to develop policy advice on amending the Isolation and Quarantine Order to allow for future training exemptions.

26. The South African Men's Cricket Team are due to arrive in New Zealand on 4 February. They are chartering a plane from South Africa and will depart South Africa at 8:30am on 3 February NZ time.
27. The deadline for signing contractual documents related to their stay in MIQ would be 2 February, and teams are required to have their exemptions in place before signing, so any exemptions would need to be signed before Monday 31 January (to account for the instrument to be signed off by the DG and the Minister).

## **Annexes**

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**Annex one:** Exemption of India Women's Cricket Team from requirements of the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020

# **Annex One: Exemption of India Women's Cricket Team from requirements of the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020**

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## **Gazette notice**

### **COVID-19 Public Health Response (Isolation and Quarantine) Order 2020**

#### **Exemption of India Women's Cricket Team from requirements of the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020**

1. Pursuant to clause 15A of the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020 (Order), I, Hon Chris Hipkins, Minister for COVID-19 Response, having taken into account the advice of the Director-General of Health, hereby declare that despite anything to the contrary in the Order, an Exempt Person under this notice may:
  - a. be in close proximity with other Exempt Persons under this notice for the purposes of training.

#### *Definitions*

2. In this notice, Eligible Person means any person who has travelled to New Zealand on or about 26 January 2022 to participate in the ICC Women's Cricket World Cup (as listed as a Government-approved event at H5.30.15 of the Immigration Instructions) as part of the India Women's Cricket Team (including without limitation players, coaches and other team management and support staff).
3. An Exempt Person means an Eligible Person who:
  - a. meets the Eligibility Criteria set out in clauses 16-18 of this notice; and
  - b. has not had their exemption revoked by the Director-General of Health or the Minister for COVID-19 Response in accordance with clauses 9-15 of this notice.

#### *Effect of exemption*

4. For the purposes of training at a training facility designated as a low-risk MIQF (Training Facility), this exemption permits an Exempt Person to be in close proximity to others (despite clause 8(3) of the Order), provided that this is not inconsistent with any condition specified in this notice, including any notification from a medical officer of health or the Director-General of Health given in accordance with clauses 9-15 of this notice.
5. Any Eligible Person who does not meet, or no longer meets the Eligibility Criteria is not an Exempt Person and must immediately comply with all requirements in the Order.
6. Except as set out in this notice, all other provisions of the Order continue to apply to an Exempt Person.

### *Commencement, term and expiry of notice*

7. This exemption commences at 11.59pm on 24 January 2022.
  
8. This exemption expires on the following date (whichever occurs first):
  - a. once every person subject to this exemption completes their period of isolation or quarantine in accordance with clause 10 of the Order; or
  - b. if the Director-General permanently revokes all exemptions under this notice in accordance with clauses 9-12 of this notice; or
  - c. if the Minister for COVID-19 Response permanently revokes all exemptions under this notice in accordance with clause 13 of this notice; or
  - d. at 11.59pm on 2 April 2022.

### *Revocation and suspension of exemption*

9. A person may have their exemption revoked or suspended and accordingly cease to be an Exempt Person when the Director-General notifies the Board of Control for Cricket in India (BCCI) that:
  - a. the Director-General is not satisfied that an Exempt Person is unlikely to transmit COVID-19, having regard to advice from a medical officer of health and any emerging evidence of risk of outbreak or spread of COVID-19; or
  - b. an Exempt Person has been required to stay in a high-risk MIQF or otherwise is considered at risk of transmitting COVID-19; or
  - c. an Exempt Person has breached the Order, has been arrested, charged or is suspected of committing an offence punishable by imprisonment; or
  - d. an Exempt Person has not met or complied with a condition of this exemption or has breached a condition of this exemption.
  
10. For the purposes of clause 9 of this notice, the Director-General may revoke the exemption of:
  - a. any individual Exempt Person; or
  - b. any number of Exempt Persons covered by this notice (including all Exempt Persons).
  
11. For the purposes of clause 9 of this notice, the Director-General may revoke the exemption of all or any group of Exempt Persons by providing a single notice to the BCCI.
  
12. For the purposes of clause 9 of this notice, the Director-General may:

- a. permanently revoke the exemption for any or all Exempt Person(s);
- b. suspend the exemption for any Exempt Person(s):
  - i. for a fixed period as set out in the Director-General's notice (this period may be extended at the Director-General's discretion upon provision of further notice to the Cricket Board); or
  - ii. until specified conditions set out in the Director-General's notice are met to the Director-General's satisfaction.

13. The Minister for COVID-19 Response may permanently revoke the exemption for any or all Exempt Person(s) or may amend this notice.

14. Despite anything to the contrary in this notice, where satisfied that it is necessary to do so to investigate or respond to any emerging risk, a medical officer of health may:

- a. require one or more Exempt Persons (including all Exempt Persons) to maintain distance as required by clause 8(3) of the Order.

15. The Exempt Person(s) must immediately comply with any direction given by the medical officer of health until:

- a. the Director-General of Health notifies the BCCI that the exempt activity can resume;
- b. notice is given to the BCCI that the exemption is suspended or revoked in accordance with clause 9 of this notice, in which case the Exempt Person(s) must comply with the terms of that notice;

### *Eligibility Criteria*

16. An Eligible Person must meet the following criteria to become an Exempt Person.

17. An Eligible Person must undergo:

- a. a COVID-19 polymerase chain reaction test within 48 hours prior to commencing their travel to New Zealand; and
- b. a symptom check within 48 hours prior to commencing their travel to New Zealand; and
- c. medical testing and examination for COVID-19 within 24 hours of their arrival at the allocated MIQF in which the Exempt Person is are residing; and
- d. medical testing and examination for COVID-19 on or around the third day after arrival in New Zealand; and
- e. medical testing and examination for COVID-19 on or around the sixth day after arrival in New Zealand (Day Six Test).

18. Following completion of the Day Six Test, an Eligible Person will be an Exempt Person if a medical officer of health is satisfied that the Eligible Person is unlikely to transmit COVID-19.

### *Ongoing Conditions*

19. Exempt Persons must:

- a. undergo medical testing and examination on or around the ninth day after arrival to New Zealand and continue to satisfy a medical officer of health that they are unlikely to transmit COVID-19;
- b. refrain from in-person contact (to the greatest extent practicable) with any other person who is not an Exempt Person under this notice;
- c. maintain physical distancing (to the greatest extent practicable) from all other residents (i.e. those persons not subject to this exemption) at the allocated MIQF in which the Exempt Person is residing and at any other location and in accordance with this exemption;
- d. comply with any other public health measures that are necessary or desirable to ensure that the activities permitted by this exemption are conducted safely to prevent the outbreak or spread of COVID-19, as notified to the BCCI by the Director-General of Health or a medical officer of health from time to time.

20. Pursuant to clause 15A of the Order, I, Hon Chris Hipkins, Minister for COVID-19 Response, revoke the following exemption previously made under that clause:

- Exemption of India Women's Cricket Team from requirements of the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020 (Notice Number 2022-go111)

Dated at Wellington this 28th day of January 2022.

Hon Chris Hipkins, Minister for COVID-19 Response.

