



## BRIEFING

### Amendments to the Isolation and Quarantine Order for exemptions for groups

<b>Date:</b>	21 February 2022	<b>Priority:</b>	Urgent
<b>Security classification:</b>		<b>Tracking number:</b>	2122-2809

Action sought		
	Action sought	Deadline
Hon Chris Hipkins <b>Minister for COVID-19 Response</b>	<b>Agree</b> to sign the attached COVID-19 Public Health Response (Isolation and Quarantine) Amendment Order (No 2) 2022.	21 February 2022

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

The following departments/agencies have been consulted
Ministry of Health

Minister's office to complete:

Approved

Declined

Noted

Needs change

Seen

Overtaken by Events

See Minister's Notes

Withdrawn

Comments



# BRIEFING

## Amendments to the Isolation and Quarantine Order for training exemptions for sports teams

<b>Date:</b>	21 February 2022	<b>Priority:</b>	Urgent
<b>Security classification:</b>		<b>Tracking number:</b>	2122-2809

### Purpose

---

This briefing seeks your agreement to sign the attached COVID-19 Public Health Response (Isolation and Quarantine) Amendment Order 2022 (the Amendment Order).

The Amendment Order creates a new provision in the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020 (the IQ Order) which allows you to grant permission for groups to leave their managed isolation facility (MIF) to train subject to specific public health conditions set by the Director-General of Health.

### Executive summary

---

Since September 2020, there has been a power for the Minister to grant exemptions from the IQ Order to allow groups to leave their place of isolation in order to train or rehearse. The power has been predominantly used to allow elite sports teams to train on-site and off-site to mitigate the risk of injury and prepare for professional sporting events (for example, the Wallabies Rugby team training prior to competing in the Bledisloe Cup in New Zealand).

A number of changes were made to the COVID-19 Public Health Response Act 2020 in November 2021 to bring elements of the managed isolation and quarantine (MIQ) system into primary legislation. This resulted in requiring dual decision-makers for granting exemptions for groups to leave their MIQ facility.

On 28 January 2022, you agreed to amend the IQ Order to create a sustainable system for allowing groups to train or rehearse [2122-2413 refers].

The attached Amendment Order inserts a new provision which allows you, as the Minister for COVID-19 Response, to determine which groups are granted permission to leave their room in an MIF to train and allows the Director-General to determine the specific conditions, including public health measures that the group will need to comply with.

It is intended that the Amendment Order comes into force with enough time to grant the Netherlands Men's Cricket Team permission to train during their stay in MIQ and set the specific conditions of that permission. The Netherlands team is due to arrive on 4 March 2022. To ensure that contractual documentation which will govern the provision of and charging for additional services linked to training and other particular needs for the Netherlands Men's Cricket Team is signed prior to the team's arrival in New Zealand, the Amendment Order will need to come into force at 11:59pm on 24 February 2022.

You will receive further advice from the Ministry of Health specifically about the Netherlands Men's Cricket Team which will request your permission for the team to train and outline the conditions that the Director-General intends to impose on the team.

## Recommended action

---

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

- a **Note** that the Netherlands Men's Cricket Team is due to arrive in New Zealand on 4 March 2022.

*Noted*

- b **Note** that, in order for conditions to be set for the Netherlands Men's Cricket Team training and the contract to be signed before their arrival, the attached COVID-19 Public Health Response (Isolation and Quarantine) Amendment Order 2022 needs to come into force by 11:59pm on 24 February 2022.

*Noted*

- c **Note** that the attached COVID-19 Public Health Response (Isolation and Quarantine) Amendment Order 2022 allows you, as the Minister for COVID-19 Response, to grant permission to groups to leave a managed isolation facility to train, subject to conditions imposed by the Director-General of Health.

*Noted*

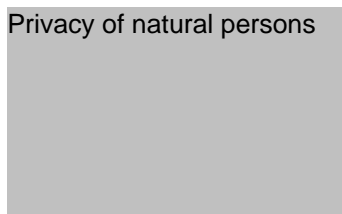
- d **Note** that when sports teams are eligible to self-isolate through the medium-risk pathway, the permission to leave their place of self-isolation will be built into the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020 and this power will not be used.

*Noted*

- e **Agree** to sign the attached COVID-19 Public Health Response (Isolation and Quarantine) Amendment Order 2022 on Monday 21 February 2022.

Agree /  Disagree

Privacy of natural persons



**Manager, MIQ Implementation and Regulation**

MIQ Policy, MBIE

21 / 02 / 2022

A handwritten signature in blue ink, appearing to read 'C Hipkins', located above the name of the Minister.

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

21 / 2 / 2022

## Background

---

1. International sports teams and other groups have been arriving in New Zealand throughout the COVID-19 pandemic. Some elite grade groups have been granted exemptions from the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020 (the IQ Order) to allow them to train while staying in a managed isolation facility (MIF).
2. In November 2021, the COVID-19 Public Health Response Amendment Act 2021 was passed and the requirement to remain in a person's place of isolation was moved from the IQ Order to the COVID-19 Public Health Response Act 2020 (the Act).
3. This change resulted in a two-stage decision process for allowing sports teams to train, with you granting an exemption from the physical distancing requirement, and the chief executive of MBIE allowing the team to leave their room, subject to conditions (as outlined in briefing 2122-2413).

## The IQ Order needs to be amended to streamline the sports exemption process

---

### *Current issue*

4. Currently, there are two separate decisions that must be made in order to allow a group to train/practice while staying in a MIF. The team members must be:
  - a. exempted from the requirement to maintain physical distance from all other persons in the MIF by you, as the Minister for COVID-19 Response, and
  - b. authorised, in accordance with section 32P of the Act, by the chief executive of MBIE to leave their room to do an activity (subject to any conditions imposed).
5. This requires both you, as the Minister for COVID-19 Response, and the chief executive of MBIE to sign off and agree to different halves of the same decision. If one was to be made without the other, the group could not train.
6. MBIE legal have advised that the changes to the Act mean that the exemption power that you have, as the Minister for COVID-19 Response should be removed.
7. Section 32P of the Act was used by the chief executive of MBIE earlier this year to allow the Indian Women's Cricket team to train, as it was urgently needed [2122-2413 refers]. This  

Free and frank opinions

  
As section 32P of the Act does not have any restrictions as to who may be granted permission to leave their room to exercise, or any criteria to limit the chief executive's discretion, there is an argument that anyone should be granted similar permission to leave their room to train. For example, someone may argue that a social netball team should be allowed to leave their MIF to train. MBIE legal considers that it would be more appropriate to use the new provision in the attached Amendment Order than rely on section 32P of the Act.

### *Intended solution*

8. The attached COVID-19 Public Health Response Amendment Order 2022 (the Amendment Order) creates a new provision in the IQ Order that permits a person to leave their room, and exempt them from physical distancing, in a MIF if:
  - a. they are involved in a Government-approved event or major Government-approved programme (as listed in the immigration instructions),

- b. you, as the Minister for COVID-19 Response, are satisfied that it is necessary for that person to facilitate that event,
  - c. the person complies with any conditions set by the Director-General relating to:
    - i. medical examination and testing for COVID-19,
    - ii. physical distancing requirements,
    - iii. the conduct of in-person contact, and
    - iv. the public health measures regarding travel requirements for facilitating the event or programme.
  - d. complies with any other conditions imposed by the chief executive of MBIE under section 32P(2) of the Act, and
  - e. the Minister is satisfied that the permission is not broader than is reasonably necessary to facilitate the event.
9. The Netherlands Men's Cricket Team is the next team due to arrive in New Zealand (on 4 March 2022) who intend to train during their MIQ stay. These amendments will need to be come into force before 11:59pm on 24 February 2022 in order to use the new provision to authorise the Netherlands Men's Cricket Team to train.
10. Given there is a requirement in the Act that a COVID-19 order must be published for 48 hours before it may commence, the Amendment Order will need to be signed by 11.59pm on 21 February 2022 to commence by 11:59pm on 24 February 2022.

## **The amendments to the IQ Order will ensure that the decisions related to sports exemptions sits with the appropriate decision-maker**

---

11. The amendments to the IQ Order will allow decisions to be made that complement each other. This will result in:
- a. the decisions with political significance (for example, the decision to allow a specific sports team to train while staying in a MIF) sitting with the Minister for COVID-19 Response, and
  - b. the relevant public health conditions relating to the sports team's training sitting with the Director-General of Health.

### *Role of the Minister for COVID-19 Response*

12. The responsibility to determine which groups may be granted permission to leave their allocated MIF during their stay will remain a Ministerial decision.
13. This includes consideration of whether it is necessary and appropriate for the person to leave their room for training purposes, taking into account the relevant social or economic benefits that the group will bring to New Zealand against the public health risk that the group presents.

### *Role of the Director-General of Health*

14. The Director-General of Health will have the responsibility to determine the public health measures and operational conditions that are appropriate for each group, based on the public health risk that the group poses.

15. For example, this may include conditions relating to medical examination and testing, physical distancing/in person contact, travel arrangements, whether the group needs to train in 'bubbles', and PPE requirements (such as mask use).

## **The Isolation and Quarantine Order has already been amended to allow sports teams to train while in self-isolation**

---

16. In preparation for Step 1 of Reconnecting New Zealanders to the World, the COVID-19 Public Health Response (Air Border) Order 2021 was made, and the IQ Order was amended to give effect to the self-isolation pathway.
17. The IQ Order allows groups to train or rehearse while in self-isolation if they have been approved to do so by the chief executive of Sport New Zealand, or the chief executive of the Ministry of Culture and Heritage respectively.
18. That means that the attached Amendment Order will only relate to those groups who are required to enter MIQ.

## **The relevant statutory requirements have been met**

---

19. The Act includes a number of safeguards to ensure that a COVID-19 order made under section 11 is subject to proper scrutiny and process.

### **Must have regard to the Director-General's advice**

20. Before making a COVID-19 order, you must have had regard to advice from the Director-General about the risks of the outbreak or spread of COVID-19 and the nature and extent of measure that are appropriate to address those risks.
21. Advice from the Ministry of Health states that the approach of the Amendment Order provides an approach that ensures consistency and equity across teams while allowing for flexibility depending on the public health risk profile of any given team. The Director-General is satisfied that this approach is the best way to impose public health measures to enable elite sports teams to train during their time in a MIF while mitigating the risk of further outbreak or spread of COVID-19 in New Zealand.
22. A Ministry of Health memorandum, signed by the Director-General of Health, regarding this Amendment Order has been attached as Annex 2 for your information.

### **Must be satisfied that the Amendment Order is consistent with the New Zealand Bill of Rights Act 1990 (NZBORA)**

23. Legal professional privilege

24.

### **Consultation with Ministerial colleagues**

25. Before making a COVID-19 order, you must consult with the Prime Minister, the Minister of Justice, the Minister of Health, and any other Minister that you think fit.
26. This consultation was undertaken on Thursday 17<sup>th</sup> February 2022. No feedback was received.

## **The Amendment Order must be appropriate to achieve the purpose of the Act**

27. The purpose of the Act is to support a public health response to COVID-19 that –
  - a. prevents, and limits the risk of, the outbreak or spread of COVID-19
  - b. avoids, mitigates, or remedies the actual or potential adverse effects of the COVID-19 outbreak
  - c. is co-ordinated, orderly, and proportionate
  - d. allows social, economic, and other factors to be taken into account where it is relevant to do so,
  - e. is economically sustainable and allows for the recovery of MIQF costs, and
  - f. has enforceable measures, in addition to the relevant voluntary measures and public health and other guidance that also support that response.
28. This Amendment Order provides a streamlined approach to allowing groups to leave their MIF to train or rehearse in order to support major events or programmes. These events and programmes all significantly contribute to the New Zealand economy.
29. These groups are only allowed to leave their MIF after adhering public health measures before their travel, and during their stay, to ensure that the public health risk is mitigated to the greatest extent possible.

## **Next steps**

---

30. If you sign the attached Amendment Order on Monday 21<sup>st</sup> February 2022, it will be published by PCO on the same day. It will then come into force on 11:59pm on Thursday 24<sup>th</sup> February 2022, which will allow sufficient time for the contract to be signed, permission to be granted, and the conditions to be set.
31. After the Amendment Order comes into force, you will receive further advice from the Ministry of Health regarding the Netherlands Men's Cricket Team and the conditions the Director-General intends to impose.

## **Annexes**

---

Annex One: COVID-19 Public Health Response (Isolation and Quarantine) Amendment Order 2022

Annex Two: Memo: Amendments to the Isolation and Quarantine Order for exemptions for groups (Ministry of Health)

## **Annex One: COVID-19 Public Health Response (Isolation and Quarantine) Amendment Order 2022**

---

Will be sent directly by the Parliamentary Counsel Office.

Document is available here: <https://www.legislation.govt.nz/regulation/public/2022/0022/latest/LMS647134.html>



**Annex Two: Memo: Amendments to the Isolation and Quarantine Order  
for exemptions for groups (Ministry of Health memo)**

---

# Memo

## Amendments to the Isolation and Quarantine Order for exemptions for groups

---

**Date:** 14/02/2022

**To:** Dr Ashley Bloomfield, Te Tumu Whakarae mō te Hauora, Director-General of Health

**From:** Maree Roberts, Deputy Director-General, System Strategy and Policy

**For your:** Decision

---

### Purpose of report

1. This memo seeks agreement to amend the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020 (the IQ Order). The proposed amendment would insert a new provision, which would allow the Minister to agree whether it is appropriate to permit a group to leave their MIF to train. You, as the Director-General of Health, would be able to determine the specific conditions with which the group would need to comply.
2. This amendment has been proposed by the Ministry of Business, Innovation and Employment (MBIE) in preparation for the upcoming visit by the Netherlands Cricket Team on 4 March 2022.

### Background and context

3. International sports teams and other groups have been arriving in New Zealand throughout the COVID-19 pandemic. Many groups have been granted exemptions from certain requirements under the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020 (the IQ Order) to allow them to train while staying in a managed isolation facility (MIF).
4. In November 2021, the COVID-19 Public Health Response Amendment Act 2021 was passed, resulting in a two-stage decision process to allow groups to train. The Minister for COVID-19 Response can grant an exemption for the physical distancing requirement, and the Chief Executive of MBIE can allow the team to leave their room, subject to conditions.
5. On 28 January 2022, the Minister agreed to amend the IQ Order to create a more sustainable system for allowing groups to train [2122-2413 refers].
6. MBIE has provided the Parliamentary Counsel Office (PCO) with drafting instructions to amend the IQ Order. The proposed amendment would insert a new provision, which would allow the Minister to agree whether it is appropriate to permit a group to leave their MIF to train. You, as the Director-General of Health, would be able to determine the specific conditions with which that the group would need to comply.
7. It is intended that the Amendment Order comes into force in the week of 21 February 2022 (or slightly later), with enough time to grant Netherlands Men's Cricket Team permission to

train during their stay in MIQ and to set the specific conditions of that permission. The Netherlands cricket team is due to arrive on 4 March 2022.

8. The Ministry of Health (the Ministry) have advised that the notice outlining the conditions needs to be signed at least one week prior to a group's arrival to ensure that pre-travel conditions are met, contracts can be signed, and the Canterbury Regional Isolation and Quarantine (CRIQ) can prepare. This requires the Amendment Order to be signed by 24 February 2022.

### **Proposed Amendment Order**

9. The proposed Amendment Order creates a new provision in the IQ Order that permits a person to leave their room in a MIF if:
  - a. they are involved in a Government-approved event or major Government-approved programme (as listed in the immigration instructions),
  - b. the Minister for COVID-19 Response, is satisfied that it is necessary for that person to facilitate that event,
    - i. the person complies with: Any conditions set by the Director-General relating to:
      1. Testing requirements and medical examinations
      2. Physical distancing and in-person contact
      3. Public Health measures to, from and during training
      4. Revocation and cessation of the permission
  - c. the Minister is satisfied that the permission is not broader than is reasonably necessary to facilitate the event.

### **Ensuring decisions regarding sports exemptions sits with the appropriate decision-makers**

10. The amendments to the IQ Order will allow decisions to be made that complement each other. This will result in:
  - a. the decisions with political significance (for example, the decision to allow a specific sports team to train while staying in a MIF) sitting with the Minister for COVID-19 Response,
  - b. and the relevant conditions regarding the details of the permission sitting with the Director-General of Health.

#### *Role of the Minister for COVID-19 Response*

11. The responsibility to determine whether it is necessary for a group to be granted permission to leave their allocated MIF during their stay will remain with the Minister.

#### *Role of the Director-General of Health*

12. The Director-General of Health will have the responsibility to determine the public health measures and operational conditions that are appropriate for each group, based on the public health risk that the group poses.

13. For example, this may include the testing regime, whether the group needs to train in 'bubbles', or PPE requirements (such as mask use)<sup>1</sup>.

## Confirming your position on the proposed Amendment Order

### *The structure of the conditions in the Amendment Order*

14. The proposed amendment gives you the responsibility to specify conditions within a broad set of categories such as testing or physical distancing. These broad categories would be specified in the IQ Order.
15. An alternative approach is to draft a broad power allowing you to set any condition relating to the permission for the team to train.
16. We recommend that you agree to the proposed drafting as this provides a transparent structure and expected set of conditions for any incoming groups. It also ensures consistency and equity across teams while allowing for flexibility depending on the public health risk profile of the team. ✓
17. In practice, a Health Report outlining the public health risk profile of the team and advice regarding the necessity for training will be provided to the Minister along with a draft of the notice outlining the specific conditions proposed for the team. Should the Minister agree that it is necessary for the team to train, the notice of conditions can then be signed.

## Recommendations

It is recommended that you:

1.	<b>Note</b>	the Ministry of Business, Innovation and Employment are proposing an amendment to the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020 (the IQ Order) that proposes that the Director-General of Health become responsible for setting conditions for permission for teams to train while in a MIF.	<b>Noted</b> ✓
2.	<b>Agree</b>	that the Director-General becomes responsible for setting conditions for permission for teams to train while in a MIF	<b>Yes/No</b>
3.	<b>Agree</b>	based on the information available, to <b>either</b> :  <b>Option A (Preferred)</b> – Drafting the order to set out the broad categories of conditions (e.g., testing requirements.) but the specifics are determined by you (e.g., the type of test and the day/s of testing), OR  <b>Option B</b> – Drafting the Amendment Order to allow you to set conditions.	<b>Yes/No</b>  <b>Yes/No</b>
4.	<b>Note</b>	this Amendment Order is expected to be signed by the Minister by 24 February 2022 and to come into effect before 4 March 2022. However, MBIE have advised this may be slightly delayed.	<b>Noted</b> ✓

<sup>1</sup> Listed in 9) c) i) 1-4

5.	<b>Agree</b>	to provide MBIE with a copy of this memo, signalling your agreement to the proposed amendments.	<b>Yes/No</b>
6.	<b>Note</b>	This is one of two memos' being sent to you regarding sporting teams training while in MIQ. This memo is regarding the releasing teams to train while they are still in a MIF.	<b>Noted</b> ✓

Signature \_\_\_\_\_  
 Dr Ashley Bloomfield

Date: 15/2/22

**Te Tumu Whakarae mō te Hauora**  
 Director-General of Health