



COVID-19 Public Health Response (Air Border) Order (No 2) Amendment Order (No 3) 2021

This order is made by the Minister for COVID-19 Response under sections 11 and 15(1) of the COVID-19 Public Health Response Act 2020 in accordance with section 9 of that Act.

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Order

1 Title

This order is the COVID-19 Public Health Response (Air Border) Order (No 2) Amendment Order (No 3) 2021.

2 Commencement

This order comes into force at 11.59 pm on 28 April 2021.

3 Principal order

This order amends the COVID-19 Public Health Response (Air Border) Order (No 2) 2020.

4 Clause 3 amended (Purpose)

In clause 3, replace “requirements on persons” with “requirements in relation to persons”.

5 Clause 4 amended (Interpretation)

In clause 4(1), insert in its appropriate alphabetical order:

very high risk country means a country listed in Schedule 3

6 Part 1A heading amended

In the Part 1A heading, replace “**Obligation**” with “**Obligations**”.

7 Clause 7B amended (Certain air carriers to comply with requirements relating to pre-departure testing)

After clause 7B(1), insert:

(1A) The air carrier must not cause an aircraft to arrive in New Zealand unless it has taken the steps set out in subclause (2).

8 Clause 7C replaced (Certain air carriers to comply with requirements relating to travel from India)

Replace clause 7C with:

7C Certain air carriers to comply with requirements relating to travel from very high risk countries

(1) This clause applies to any air carrier that is responsible for, or has a commercial obligation in, the transporting of a person (other than an exempt person) on a flight or a multi-leg flight from another country to New Zealand.

(2) The air carrier must not cause an aircraft to arrive in New Zealand unless it has taken the steps set out in subclause (3) or (4).

Flights departing from very high risk countries

- (3) If the flight departs from a very high risk country, the air carrier must take reasonable steps to ensure that the person does not board the flight.

Flights departing from other countries

- (4) If the flight departs from a country other than a very high risk country, the air carrier must take reasonable steps to ensure that the person,—
- (a) when checking in for the flight or initially checking in for the multi-leg flight, is informed that the person is prohibited from arriving in New Zealand under clause 8A if they have been in a very high risk country within the 14 days immediately before the date of their arrival in New Zealand; and
 - (b) does not board the flight unless the person has stated that they have not been in a very high risk country within that period.
- (5) The statement required by subclause (4)(b) must be given verbally or by other means of communication (including a statement made on behalf of the person) if verbal communication is not possible.
- (6) In this clause, **exempt person** means a person who is exempt from clause 8A by or under this order.

9 Clause 8A replaced (Obligations on persons arriving in New Zealand by air having been in India)

Replace clause 8A with:

8A Obligations on persons who have been in very high risk countries

- (1) A person must not arrive in New Zealand by air if they have been in a very high risk country within the 14 days immediately before the date of their arrival.
- (2) To avoid doubt, a person must still comply with clause 8 if the person arrives in New Zealand—
- (a) in reliance on an exemption from this clause that is provided by or under this order; or
 - (b) in breach of subclause (1).

10 Clause 18A replaced (Exemptions relating to persons arriving in New Zealand by air having been in India)

Replace clause 18A with:

18A New Zealand citizens and certain related persons

- (1) The following persons arriving by air in New Zealand are exempt from clause 8A:
- (a) a New Zealand citizen:

- (b) a spouse, civil union partner, or de facto partner of a New Zealand citizen:
- (c) a dependent child of a New Zealand citizen:
- (d) a parent of a dependent child who is a New Zealand citizen.

(2) In this clause,—

dependent child has the meaning given by section 4 of the Immigration Act 2009

New Zealand citizen has the meaning given by section 4 of the Immigration Act 2009

parent, in relation to a dependent child, means a person on whom the child is dependent.

18B Arrivals who remain airside while transiting through very high risk countries

A person arriving by air in New Zealand is exempt from clause 8A if they—

- (a) were in a very high risk country within the 14 days immediately before the date of their arrival in New Zealand; but
- (b) were airside of an airport the entire time that they were in the very high risk country.

18C Aircrew members

An aircrew member is exempt from clause 8A.

18D Diplomatic and consular officials, and New Zealand Defence Force

The following persons arriving by air in New Zealand are exempt from clause 8A:

- (a) a person who is entitled to any immunity from jurisdiction by or under—
 - (i) the Diplomatic Privileges and Immunities Act 1968 (other than a person referred to in section 10D(2)(d) of that Act) or the Consular Privileges and Immunities Act 1971; or
 - (ii) any order under either of those Acts:
- (b) a person who is a member of the New Zealand Defence Force and returning from service outside New Zealand.

18E Persons on aircraft landing for non-traffic purposes

A person arriving by air in New Zealand is exempt from clause 8A if they are on an aircraft that is required to land in New Zealand for a purpose other than taking on or discharging passengers, cargo, or mail.

11 New Schedule 3 inserted

After Schedule 2, insert the Schedule 3 set out in the Schedule of this order.

Schedule

New Schedule 3 inserted

cl 11

Schedule 3

Very high risk countries

cl 4

Brazil
India
Pakistan
Papua New Guinea

Dated at Wellington this 26th day of April 2021.

Hon Chris Hipkins,
Minister for COVID-19 Response.

Explanatory note

This note is not part of the order, but is intended to indicate its general effect.

This order amends the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 (the **principal order**). It comes into force at 11.59 pm on 28 April 2021.

Clauses 1 to 3 are the Title, commencement, and principal order clauses.

Clause 4 amends clause 3 of the principal order to clarify that the purpose of the principal order involves imposing requirements in relation to persons arriving in New Zealand (rather than imposing requirements only on those persons).

Clause 5 amends clause 4 of the principal order to insert a definition of very high risk country. A very high risk country is defined as one that is listed in *new Schedule 3*. That schedule lists the following as very high risk countries:

- Brazil:
- India:
- Pakistan:
- Papua New Guinea.

Clause 6 makes a minor amendment to the heading of Part 1A of the principal order.

Clause 7 amends clause 7B of the principal order so that the requirements in that clause apply in relation to causing an aircraft to arrive in New Zealand.

Clause 8 replaces clause 7C of the principal order. *New clause 7C* prohibits an air carrier from causing an aircraft to arrive in New Zealand unless the air carrier has,—

- if the flight departs from a very high risk country, taken reasonable steps to ensure that only persons with exemptions from *new clause 8A* board the flight; or
- if the flight departs from another country, taken reasonable steps to ensure that—
 - a person (other than an exempt person) checking in for the flight is informed that they are prohibited from entering New Zealand if they have been in a very high risk country within the 14 days immediately before the date of their arrival in New Zealand; and
 - the person does not board the flight unless they have stated that they have not been in a very high risk country within that period.

Clause 9 replaces clause 8A of the principal order. *New clause 8A* prohibits a person from arriving in New Zealand by air if they have been in a very high risk country within the 14 days immediately before the date of their arrival.

Clause 10 provides for exemptions from the prohibition under *new clause 8A* by replacing clause 18A of the principal order with the following:

- *new clause 18A*, which exempts New Zealand citizens, the partners and dependent children of New Zealand citizens, and the parents of dependent children who are New Zealand citizens;
- *new clause 18B*, which exempts people who transit through a very high risk country and remain airside while doing so;
- *new clause 18C*, which exempts aircrew members;
- *new clause 18D*, which exempts diplomatic and consular officials, and members of the New Zealand Defence Force returning from service outside New Zealand;
- *new clause 18E*, which exempts people on aircraft that are required to land in New Zealand for a purpose other than taking on or discharging passengers, cargo, or mail.

Clause 11 inserts *new Schedule 3* into the principal order. *New Schedule 3* lists the very high risk countries.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 26 April 2021.
This order is administered by the Ministry of Health.