

8 June 2022

Chuck Schooner

By email: fyi-request-19110-6ab11d8f@requests.fyi.org.nz
Ref: H202205344

Tēnā koe Chuck

Response to your request for official information

Thank you for your request under the Official Information Act 1982 (the Act) to the Ministry of Health (the Ministry) on 11 April 2022 for information about why certain groups of people are required to provide proof of vaccination against COVID-19 to enter New Zealand, and why some groups, such as refugees or people from Ukraine, are exempt from the vaccination requirement. You specifically requested:

“As per Government policy

- non-New Zealand citizens including New Zealand permanent residents need proof of vaccination to enter NZ*
- non-New Zealand citizens who are transiting New Zealand require proof of vaccination*
- foreign air crew arriving in New Zealand require proof of vaccination*

Proof of vaccination is not required for refugees or people entering from Ukraine amongst other groups - can you please provide all documentation collaborating with the immigration minister relating to the following

- Documents, reporting, risk assessments and recommendations as to why the above groups are required to have proof of vaccination - is it a perceived higher risk? Please provide the public health recommendation for this group of people requiring vaccination*
- Documents, reporting, risk assessments and recommendations as to why refugees and people from Ukraine ARE NOT required to have proof of vaccination - is it a perceived lower risk? Please provide the public health recommendation for this group of people and why they don't require vaccination.*

If the above has not been done then why not? Surely refugees and people from Ukraine would then fall under the category of non-New Zealand citizens entering in New Zealand who require vaccination and so the category of people is the same?”

The Ministry has identified three documents within scope of your request. They are itemised in Appendix 1 and copies are enclosed. Where information is withheld, this is outlined in the Appendix and noted in the document itself. Please note where information is withheld under section 9 of the Act, I have considered the countervailing public interest in release in making this decision and consider that it does not outweigh the need to withhold at this time.

To provide some additional context to your request, vaccination has played an important part in reducing the overall impact of COVID-19 within New Zealand, including reducing the overall morbidity and mortality due to COVID-19.

COVID-19 vaccination requirements for entry to New Zealand were first introduced on 1 November 2021 as a further response to the pandemic and currently apply only to arrivals at the air border

When the policy was introduced, there was agreement that certain categories of people would be exempt from the vaccination requirement for various reasons including humanitarian grounds. This has included refugees arriving in New Zealand for the first time, Afghan nationals who are being evacuated from Afghanistan, and more recently people arriving from Ukraine due to the current conflict.

New Zealand has now entered a new chapter in the COVID-19 response and our borders and domestic settings are gradually becoming less restrictive. We have shifted from a 'Keep it Out' approach, as part of the Elimination Strategy, to an increasingly open border with limited measures in place under our minimise and protect approach.

As our COVID-19 context has changed, there has been a shift in the purpose of requiring travellers (visitors and tourists in particular) to be vaccinated as a condition of entry to New Zealand. The current objective is primarily to reduce the severity of serious illness from COVID-19, and therefore to minimise the potential burden on the health system.

I trust this information fulfils your request. Under section 28(3) of the Act, you have the right to ask the Ombudsman to review any decisions made under this request. The Ombudsman may be contacted by email at: info@ombudsman.parliament.nz or by calling 0800 802 602.

Please note that this response, with your personal details removed, may be published on the Ministry website at: www.health.govt.nz/about-ministry/information-releases/responses-official-information-act-requests.

Nāku noa, nā



Maree Roberts
Deputy Director-General
System Strategy and Policy

Appendix 1: List of documents for release

#	Date	Document details	Decision on release
1	11 March 2022	Internal Ministry of Health email correspondence: Possible exemption from pre-travel requirements for people arriving from Ukraine.	Released with some information withheld under section 9(2)(a) of the Act, to protect the privacy of natural persons.
2	21 March 2022	Briefing: Further policy approvals for inclusion in the COVID-19 Public Health Response (Air Border) Amendment Order (No 3) (HR20220509)	Released with some information withheld under section 9(2)(a) of the Act.
3	22 March 2022	Memorandum: COVID-19 Public Health Response (Air Border) Amendment Order (No 3) 2022 (HR20220524)	Some information withheld under sections <ul style="list-style-type: none">• 9(2)(a); and• 9(2)(h) to maintain legal professional privilege.

From: Mark Heffernan
Sent: Friday, 11 March 2022 3:09 pm
To: Laura Miller
Subject: ODPH view on Ukraine

From: Harriette Carr <Harriette.Carr@health.govt.nz>
Sent: Friday, 11 March 2022 3:07 pm
To: Mark Heffernan <Mark.Heffernan@health.govt.nz>; PHP-Office of the Director of Public Health <PHP-Office.of.the.Director.of.Public.Health@health.govt.nz>
Subject: RE: Possible exemption from pre-travel requirements for people arriving from Ukraine

Hi Mark,

Assuming that we are not talking about large numbers here, then I think the humanitarian argument takes precedent over PDT and vaccination from my perspective – similar to Afghanistan.

I assume that they would be provided with appropriate support on arrival to enable them to access vaccination, etc.

Kind regards

Dr Harriette Carr
Deputy Director of Public Health
Population Health and Prevention
Ministry of Health

S9(2)(a)

<http://www.health.govt.nz>
<mailto:Harriette.Carr@health.govt.nz>

From: Mark Heffernan <Mark.Heffernan@health.govt.nz>
Sent: Friday, 11 March 2022 10:40 am
To: PHP-Office of the Director of Public Health <PHP-Office.of.the.Director.of.Public.Health@health.govt.nz>
Subject: Possible exemption from pre-travel requirements for people arriving from Ukraine

Morning all,

I'm writing to ask for your view on the public health risks of exempting travellers arriving from Ukraine from vaccination and pre-departure testing requirements in the ABO?

MBIE Immigration is working at pace to establish a process to allow certain people travelling from Ukraine to enter New Zealand. A short-term fix will see the first of these travellers arriving next weekend and a more enduring Visa class will then be established from early April. MBIE has identified pre-departure testing and vaccination requirements in the ABO as a barrier to facilitating these arrivals.

Currently, the ABO does exempt citizens of Afghanistan from these requirements. We also have the ability to consider individual exemptions under this [Notice](#). However, the advice we have received is that exemptions on a country basis are more appropriately set by the Order.

We have an opportunity to wrap an exemption from these requirements into next week's ABO Amendment, but need advice on what the public health risks are and whether they are acceptable? I'm not sure how to present this

to you analytically, but note that the number of arrivals aren't likely to be high and the justification and circumstances are likely to be similar to the existing exemption provided to citizens of Afghanistan.

Regards,

Mark

Mark Heffernan | Principal Policy Analyst, Covid-19 Policy
System Strategy and Policy | Ministry of Health | mark.heffernan@health.govt.nz



RELEASED UNDER THE OFFICIAL INFORMATION ACT 1982

Briefing

Further policy approvals for inclusion in the COVID-19 Public Health Response (Air Border) Amendment Order (No 3)

Date due to MO:	21 March 2022	Action required by:	21 March 2022
Security level:	IN CONFIDENCE	Health Report number:	20220509
To:	Hon Chris Hipkins, Minister for COVID-19 Response		
CC:	Hon Dr Ayesha Verrall, Associate Minister for COVID-19 Response		

Contact for telephone discussion

Name	Position	Telephone
Dr Ashley Bloomfield	Te Tumu Whakarae mō te Hauora Director-General of Health	S9(2)(a)
Maree Roberts	Deputy Director-General, System Strategy and Policy	

Minister's office to complete:

- | | | |
|--|---|---|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Decline | <input type="checkbox"/> Noted |
| <input type="checkbox"/> Needs change | <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn | |

Comment:

Further policy approvals for inclusion in the COVID-19 Public Health Response (Air Border) Amendment Order (No 3)

Security level: IN CONFIDENCE **Date:** 18 March 2022

To: Hon Chris Hipkins, Minister for COVID-19 Response

CC: Hon Dr Ayesha Verrall, Associate Minister for COVID-19 Response

Purpose

1. This report presents two policy changes to the COVID-19 Public Health Response (Air Border) Order 2021 for your approval. If you agree, you are asked to consult the Prime Minister and your Ministerial colleagues on these changes by 9am Tuesday 22 March so they can be included in an amendment order you are due to sign on 23 March to give effect to the New Zealand Traveller Declaration.

Summary

2. On 17 November 2021 Cabinet agreed to the settings for Tranche One of the New Zealand Traveller Declaration (NZTD) (SWC-21-MIN-0178 refers). The COVID-19 Public Health Response (Air Border) Amendment Order (No 3) ("the Amendment Order") has been drafted to provide the legal basis for the NZTD to go live.
3. As these changes have been agreed by Cabinet you are not required to consult the Prime Minister and your Ministerial colleagues on them in order to meet your obligations under Section 9(1)(c) of the COVID-19 Public Health Response Act 2020. However, there are two matters that we propose to address through the Amendment Order that do require your agreement and consultation.

The penalty for non-completing the New Zealand Traveller Declaration

4. When Cabinet considered proposals for the NZTD in November it agreed to establish the penalty for non-compliance with the requirement to have a traveller pass as a "high risk" infringement offence.
5. High risk offences are defined under the COVID-19 Public Health Response (Infringement Offences) Regulations 2021 as those where a breach of the requirement results in a probable risk of transmitting or spreading COVID-19. High risk offences impose a fee of \$4,000 and have been applied to obligations around movement in Managed Isolation and Quarantine Facilities and vaccination requirements for travellers entering New Zealand.

6. Officials do not consider it appropriate to subject the penalty for non-completion of the NZTD, which is an administrative matter, to the High-Risk infringement class. We recommend that Ministers agreeing to make this is a Low-Risk infringement which would attract a fee of \$500. This would be consistent with similar breaches in COVID-19 orders such as the requirement to produce evidence of compliance with COVID-19 provisions if requested by an authorised officer. This would, however, be contrary Cabinet's prior agreement.

A new class exemption for people arriving from Ukraine

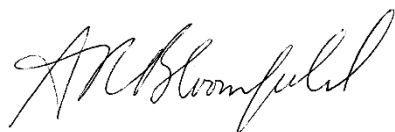
7. On 14 March 2022 Cabinet agreed to create a Special Immigration Policy for people arriving from Ukraine and invited the Minister for COVID-19 Response to consider the required changes to the COVID-19 Public Health (Air Border) Order to facilitate this.
8. In partnership with the Ministries of Business, Innovation and Employment and Foreign Affairs and Trade we consider that exemptions from requirements to be vaccinated and to have a pre-departure test are justified. This would be consistent with the exemptions granted to arrivals to New Zealand from Afghanistan.
9. These exemptions can already be granted by the Director-General and a process is in place to ensure that any imminent arrivals to New Zealand from Ukraine are not subject to these requirements. However, we recommend that these exemptions are formalised in the Order for consistency with the approach taken with arrivals from Afghanistan and to reduce any risk of legal challenge.

Recommendations

We recommend that you:

- a) **Note** that the attached COVID-19 Public Health Response (Air Border) Amendment Order (No 3) 2022 gives give effect to policy decisions for the establishment of the New Zealand Traveller Declaration agreed to by Cabinet on 17 November 2021. **Noted**
- b) **Note** that consultation on the aspects of the attached Order that give effect to the New Zealand Traveller Declaration is not required to meet your legal obligations, but officials are proposing two policy changes that, subject to your agreement, do require consultation. **Noted**
- c) **Agree** that the penalty for arriving in New Zealand without a traveller declaration no longer be a high-risk infringement offence as prescribed under the COVID-19 Public Health Response (Infringement Offences) Regulations 2021 and should instead be classified as a low-risk infringement offence. **Yes / No**
- d) **Agree** to a new class exemption in the COVID-19 Public Health Response (Air Border) Order with the effect that travellers arriving from Ukraine will not need to be vaccinated or have a pre-departure test **Yes / No**

- e) **Agree** to consult the Prime Minister, the Ministers of Justice and Health, and any other Ministers you consider relevant on the proposals in recommendations b) and c) above with feedback required by 9am Tuesday 22 March 2022 **Yes / No**
- f) **Note** that a final version of the COVID-19 Public Health Response (Air Border) Amendment Order (No 3) 2022 will be provided for your signature by 11am Wednesday 23 March 2022. **Yes / No**



Dr Ashley Bloomfield

Te Tumu Whakarae mō te Hauora

Director-General of Health

Date: 20/ 03/2022

Hon Chris Hipkins

Minister for COVID-19 Response

Date:

RELEASED UNDER THE OFFICIAL INFORMATION ACT 1982

Memorandum

COVID-19 Public Health Response (Air Border) Amendment Order (No 3) 2022 for signing

Date due to MO: 22 March 2022 **Action required by:** 23 March 2022

Security level: IN CONFIDENCE **Health Report number:** 20220524

To: Hon Chris Hipkins, Minister for COVID-19 Response

Contact for telephone discussion

Name	Position	Telephone
Dr Ashley Bloomfield	Te Tumu Whakarae mō te Hauora Director-General o Health	S9(2)(a)
Steve Waldegrave	Group Manager, COVID-19 Policy, System Strategy and Policy	

Minister's office to complete:

- | | | |
|---|------------------------------------|--|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Decline | <input type="checkbox"/> Noted |
| <input type="checkbox"/> Needs change | <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn | |

Comment:

COVID-19 Public Health Response (Air Border) Amendment Order (No 3) 2022 for signing

Security level: IN CONFIDENCE **Date:** 22 March 2022

To: Hon Chris Hipkins, Minister for COVID-19 Response

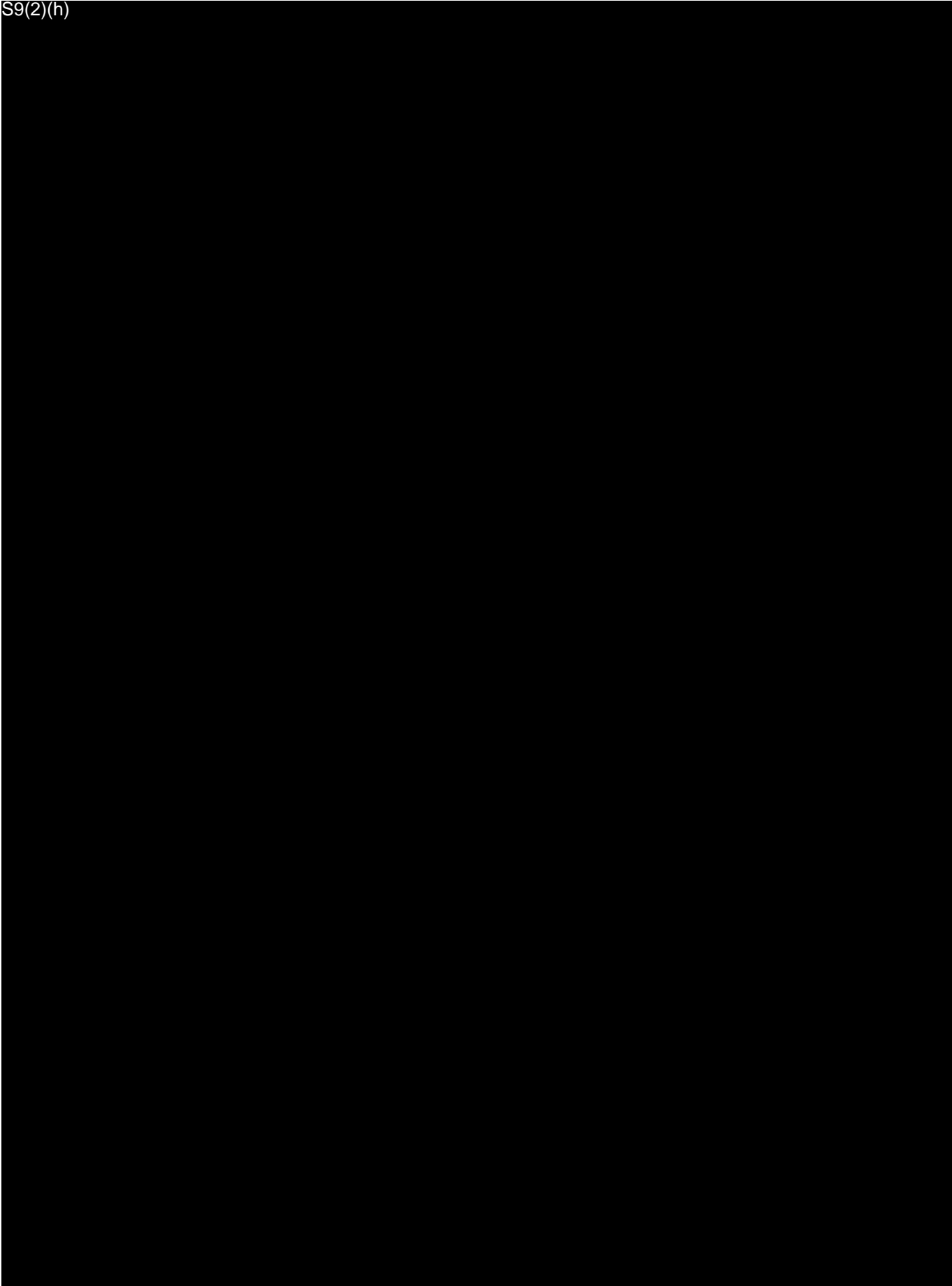
Purpose of report

1. This report recommends you sign the attached COVID-19 Public Health Response (Air Border) Amendment Order (No 3) 2022 ("the Amendment Order")
2. This report discloses all relevant information and implications.

Summary

3. On 17 November 2021 Cabinet agreed to the policy and legal settings required to operationalise the New Zealand Traveller Declaration ("NZTD") [SWC-21-MIN-0178 refers]. The attached Amendment Order has been drafted to give legal effect to these settings and provides:
 - a. a clear legal basis for the operation and responsibility of the system, including the ability to collect information and evidence for the purposes for which the system is approved
 - b. a requirement that all travellers must obtain an approved traveller declaration
 - c. a requirement that the Chief Executive of the New Zealand Customs Service must issue a traveller pass if a traveller meets all applicable COVID-19 provisions,
 - d. the ability for the Chief Executive of the New Zealand Customs Service to decline or revoke a traveller pass where:
 - o The traveller declaration did not include the required information
 - o The traveller hasn't given satisfactory evidence that have complied with applicable COVID-19 provisions
 - o The Customs Chief Executive is satisfied that the traveller declaration or evidence provided is false or misleading.
4. The Amendment Order also gives effect to your agreement to provide a class exemption from vaccination and pre-departure testing requirements for people arriving from Ukraine (HR2022059 refers).
5. The confirmation sought from you in HR2022059 that non-compliance with the New Zealand Traveller Declaration should be a low-risk infringement offence does not require a change to the Order.

S9(2)(h)



2

Commencement

12. Once signed, the provisions of the Amendment Order relating to the New Zealand Traveller Declaration will come into effect at 11:00 am on Friday 25 March 2022 to align with the launch of that system. Provisions relating to the exemption from requirements for people arriving from Ukraine will come into force at 11:59pm on Wednesday 23 March 2022.

Next steps

13. To provide for the 48-hour notification period before the New Zealand Traveller Declaration goes live, it is recommended that you sign the attached Amendment Order by 9am on Wednesday 23 March 2022 so it may be notified in the New Zealand Gazette by 11am Wednesday 23 March 2022.

Recommendations

We recommend you:

- a) **Note** that the attached draft COVID-19 Public Health Response (Air Border) Amendment Order (No 3) 2022 implements Cabinet's decisions on the policy and legal settings required to operationalise the New Zealand Traveller Declaration **Noted**
- b) **Note** that the attached draft COVID-19 Public Health Response (Air Border) Amendment Order (No 3) 2022 implements your decision to grant a class exemption from vaccination and pre-departure testing requirements for people arriving from Ukraine **Noted**
- c) **Sign** the attached draft COVID-19 Public Health Response (Air Border) Amendment Order (No 3) 2022 before 9:00 am on Wednesday 23 March 2022 **Yes/No**
- d) **Note** that, once signed, provisions of the Order that relate to the New Zealand Traveller Declaration will come into force at 11:00 am on Friday 18 March 2022 and provisions relating to the exemptions for people arriving from Ukraine will come into force at 11:59pm on Wednesday 23 March 2022. **Noted**



Dr Ashley Bloomfield

Te Tumu Whakarae mō te Hauora

Director General of Health

Date: 22 March 2022

Hon Chris Hipkins

Minister for COVID-19 Response

Date: