



COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order 2020

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 (Maritime Border) Order (No 2) Amendment Order 2020.

2 Commencement

This order comes into force at 11.59 pm on 23 December 2020.

3 Principal order

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

4 Clause 4 amended (Interpretation)

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

Customs officer has the same meaning as in section 5(1) of the Customs and Excise Act 2018

(2) In clause 4, definition of **person who undertakes a necessary task**, paragraph (d), delete “(as that term is defined in section 5(1) of the Customs and Excise Act 2018)”.

(3) In clause 4, definition of **person who undertakes a necessary task**, after paragraph (c), insert:

(ca) a health practitioner (as that term is defined in section 5(1) the Health Practitioners Competence Assurance Act 2003)

5 Clause 10 amended (Exemptions from clause 9)

(1) In clause 10(1)(b), replace “ships” with “foreign ships”.

(2) In clause 10(2), replace “ships” with “foreign ships”.

(3) In clause 10(2)(d), replace “clause 11(1)” with “clause 11”.

6 Clause 11 replaced (Director-General may permit ships to arrive in New Zealand despite clause 9)

Replace clause 11 with:

11 Director-General may permit ships to arrive in New Zealand despite clause 9

- (1) The Director-General may give permission for a ship to arrive in New Zealand only if—
- (a) all of the persons on board the ship are able to travel to New Zealand in accordance with the Immigration Act 2009; or
 - (b) the ship is seeking permission to arrive in New Zealand for the purpose of—
 - (i) reprovisioning or refuelling, or both; or
 - (ii) carrying out a refit or a refurbishment of, or a repair to, the ship that is more than minor; or
 - (iii) delivering the ship to a business; or
 - (c) there is a compelling need for the ship to arrive in New Zealand for humanitarian reasons.
- (2) If the Director-General gives permission under subclause (1), the Director-General may require any person on the ship—
- (a) to comply with—
 - (i) any applicable isolation or quarantine plan;
 - (ii) any directions given on arrival in New Zealand, including those—
 - (A) regarding where and when the ship may berth;
 - (B) given by a medical officer of health;
 - (b) to maintain contact with New Zealand authorities, including providing notice of the ship's proposed arrival time before it departs for New Zealand;
 - (c) to provide, in the case of refit, refurbishment, or repair work, evidence (if requested) that the work has been completed (for example, an invoice, a receipt, or a signed contract);
 - (d) to obtain any required visas under the Immigration Act 2009 before arrival in New Zealand;
 - (e) to comply with any other conditions that the Director-General considers necessary.

7 Clause 12 amended (Matters relevant to Director-General giving permission under clause 11)

- (1) Replace clause 12(1) with:
- (1) In determining whether to give permission under clause 11(1)(b)(ii) or (iii), the Director-General may take into account the following matters:
- (a) the urgency of the need for—
 - (i) the ship to be refitted, refurbished, or repaired:

- (ii) the delivery of the ship to a business; and
 - (b) the monetary contribution to New Zealand’s economy of—
 - (i) the refit, refurbishment, or repair work;
 - (ii) the delivery of the ship to a business and the financial benefits arising from that delivery; and
 - (c) the risk of those on board the ship spreading COVID-19 to New Zealanders and any related health concerns; and
 - (d) the likelihood of those on board the ship adhering to any applicable requirements (for example, immigration and customs requirements); and
 - (e) the likely administrative costs (if any) required to carry out activities related to ensuring compliance with the Act and this order; and
 - (f) any other matter that the Director-General considers relevant.
- (2) In clause 12(2), replace “a ship needs to arrive in New Zealand in accordance with” with “to give permission under”.
- (3) After clause 12(2), insert:
- (2A) Before permitting a ship to arrive in New Zealand under clause 11, the Director-General must take into account—
- (a) the public health risk of the ship arriving in New Zealand; and
 - (b) the resources available to manage that risk.

8 Clause 17 replaced (General requirement to remain in isolation or quarantine)

Replace clause 17 with:

17 General requirement to remain in isolation or quarantine

- (1) A person who arrives in New Zealand on board a ship must remain in isolation or quarantine for at least 14 days—
 - (a) on board that ship; or
 - (b) at a place of isolation or quarantine in accordance with clause 19(2).
- (2) A person who is in isolation or quarantine on board a ship under subsection (1) must remain in isolation or quarantine on board that ship until all the persons who arrived in New Zealand on board that ship (or were transferred to that ship under this order) meet the low-risk indicators.
- (3) For the purposes of subclause (1)(a), the period of 14 days is counted from the most recent of the following:
 - (a) the time at which and date on which the ship last departed for New Zealand from a port or other place outside New Zealand;
 - (b) the time and date of the person’s last contact, counted from the time at which the contact ended:

- (c) the time at which and date on which a new person joins the ship.
- (4) For the purposes of subclause (1)(b), if a person is transferred from the ship to a place of isolation and quarantine, the time spent in isolation or quarantine on board the ship, if continuous, may be counted when determining, under any other order, whether the person has been in isolation or quarantine at that place for a period of at least 14 days.
- (5) A person who arrives in New Zealand on board a ship may not disembark the ship except in accordance with this order.
- (6) A person who arrives in New Zealand on board a ship (**person A**) must wear personal protective equipment while another person is on board the ship to perform a necessary task (**person B**) if person A is likely to come within 2 metres of person B.
- (7) For the purposes of this clause, **person** includes any exempt crew member.

9 Clause 18 amended (Persons isolated or quarantined on ship may be transferred to place of isolation or quarantine)

- (1) Replace clause 18(1) with:
 - (1) An authorised officer may transfer a person who arrives in New Zealand on board a ship from the ship to a place of isolation or quarantine for the purpose of the person completing their period of isolation or quarantine as required by clause 23, if the officer is reasonably satisfied that the person needs to be transferred—
 - (a) to manage the public health risk; or
 - (b) to isolate or quarantine the person safely; or
 - (c) to ensure compliance with this order.
- (2) Before clause 18(3)(a), insert:
 - (aaa) a Customs officer; and

10 Clause 19 amended (Arrivals must meet low-risk indicators in order to disembark)

- (1) In the heading to clause 19, replace “**in order to disembark**” with “**to end period of isolation or quarantine**”.
- (2) Replace clause 19(2) with:
 - (2) Before authorising a person to disembark a ship, the medical officer of health or the health protection officer must be satisfied that—
 - (a) the person has met the requirements of clause 17(1); and
 - (b) no person on board the ship has, in the previous 14 days, experienced any symptoms that suggest the presence of COVID-19.
- (3) In clause 19(4), replace “**must**” with “**may**”.

11 Clause 20 amended (Certain arrivals not required to complete period of isolation or quarantine to disembark)

- (1) In clause 20(1), delete “on board a ship required”.
- (2) In clause 20(3), delete “on board a ship required”.

12 Clause 22 amended (Obligation to undergo testing and medical examination)

In clause 22(2), replace “clause 19(2)(b)(i) or 20(4)(b)(i)” with “this order”.

13 Clause 24 amended (Ships in isolation or quarantine)

- (1) Replace clause 24(1) with:
 - (1) This clause applies if a person remains in isolation or quarantine on board a ship.
- (2) In clause 24(3), replace “clause 18(1), 19(1) or (4), 20(1) or (4), 21(1), or 26(2) or (3)” with “this order”.
- (3) Replace clause 24(4) with:
 - (4) An enforcement officer may require the ship to remain at least a specified distance away from any other ship, except a ship—
 - (a) in the service of 1 or more of the following agencies:
 - (i) the Ministry of Health;
 - (ii) the Ministry for Primary Industries;
 - (iii) the New Zealand Customs Service;
 - (iv) the New Zealand Police;
 - (b) carrying a person who undertakes a necessary task;
 - (c) needed for the safe navigation, movement, or operation of the ship referred to in subclause (1).
 - (4A) The master of the ship must ensure that prescribed isolation or quarantine signage is visible and secure at the place where the ship is berthed.
 - (4B) However, an enforcement officer may exempt the master from the requirement specified in subclause (4A).
- (4) In clause 24(5), replace “(2) or (4)” with “(2), (4), or (4A)”.
- (5) After clause 24(5), insert:
 - (6) In this clause, **prescribed isolation or quarantine signage** means isolation or quarantine signage—
 - (a) prescribed by the Director-General of Health; and
 - (b) published on a publicly accessible Internet site maintained by or on behalf of the New Zealand Government.

14 Clause 25 replaced (Person who undertakes necessary task must take precautions)

Replace clause 25 with:

25 Obligations of persons undertaking necessary tasks

- (1) A person who undertakes a necessary task and who boards a ship under clause 24 must take reasonable steps to minimise the risk of an outbreak, or the spread, of COVID-19, including by—
 - (a) maintaining physical distancing (to the greatest extent practicable) from any person who is in isolation or quarantine on that ship; and
 - (b) minimising (to the greatest extent practicable) the time that the person spends on the ship; and
 - (c) wearing personal protective equipment of a type, and in a manner, consistent with guidance provided by the regulator for their industry.
- (2) In this clause, **regulator** has the same meaning as in section 16 of the Health and Safety at Work Act 2015.

15 Clause 26 amended (Exemption for certain crew departing New Zealand)

- (1) In clause 26(2)(b), replace “that is scheduled to depart from New Zealand as soon” with “as close to the time of departure”.
- (2) In clause 26(4)(b), replace “that is scheduled to depart from New Zealand as soon” with “as close to the time of departure”.

16 Clause 27 amended (Exempt crew members arriving in New Zealand by air)

In clause 27(3), replace “must” with “may”.

17 Clause 29 amended (Requirements relating to crew members who travel to or from security designated aerodrome, ship, or place of isolation or quarantine)

In clause 29(1), replace “clause 26(3), 27(3), or 28(2) or (5)” with “this order”.

Dated at Wellington this 17th day of December 2020.

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, which comes into force at 11.59 pm on 23 December 2020, amends the COVID-19 Public Health Response (Maritime Border) Order (No 2) 2020 (the **principal order**).

The principal order, which is made under the COVID-19 Public Health Response Act 2020 (the **Act**), seeks to prevent, and limit the risk of, an outbreak, or the spread, of COVID-19 by restricting which ships may arrive in New Zealand, by putting in place isolation or quarantine requirements for people who arrive in New Zealand by sea, and by enabling the safe transfer of crews. The main effect of the amendments made by this order are set out below.

Ships arriving in New Zealand

Part 2 of the principal order, which sets out restrictions on ships arriving in New Zealand, is amended to—

- clarify the requirements that apply to persons on board a ship that is permitted by the Director-General of Health (the **Director-General**) to arrive in New Zealand (*see new clause 11*):
- specify additional matters that the Director-General may take into account when giving permission for ships to arrive in New Zealand (*see new clause 12(1)*):
- require the Director-General, before giving permission for a ship to enter New Zealand, to take into account the public health risk of the ship arriving in New Zealand and the resources available to manage that risk (*see new clause 12(2A)*).

Isolation or quarantine requirements

Part 3 of the principal order, which requires persons arriving in New Zealand on board a ship to be isolated or quarantined, is amended to—

- require that a person remain in isolation or quarantine for at least 14 days on board the ship or at a place of isolation or quarantine, and may not leave the ship until all the persons who arrived in New Zealand on board that ship have met the low-risk indicators (*see new clause 17(1) and (2)*):
- require persons who arrive in New Zealand on board a ship to wear personal protective equipment while another person is on board the ship to perform a necessary task (*see new clause 17(6)*):
- refine the grounds for transferring a person from a ship to a place of isolation or quarantine (*see new clause 18(1)*):
- refine the grounds for authorising a person to disembark a ship (*see new clause 19(2)*):

- provide that an enforcement officer may, except in certain circumstances, require a ship to remain at least a specified distance away from any other ship (*see new clause 24(4)*):
- provide that the master of a ship with persons on board who are in isolation or quarantine must ensure that isolation or quarantine signage is visible and secure at the place where the ship is berthed (*see new clause 24(4A)*):
- clarify the obligations of persons who board ships to undertake necessary tasks (*see new clause 25*).

Exemptions for arriving and departing crew

Part 4 of the principal order, which sets out exemptions from the general requirement for maritime crew arriving in and departing from New Zealand by ship or air to be isolated or quarantined on arrival in New Zealand, is amended to—

- provide medical officers of health and health protection officers with a discretion to direct the transfer of crew members who have arrived in New Zealand by air for the purpose of boarding a ship to depart New Zealand as close to the time of departure as is reasonably practicable:
- ensure that the requirements relating to crew members who travel to or from a security designated aerodrome, a ship, or a place of isolation or quarantine apply to all crew change situations under the principal order.

Order revoked without resolution of House

This order must be approved by a resolution of the House of Representatives before the end of the relevant period described in section 16(2) of the Act. If that does not happen, the order is revoked at the end of that period.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 18 December 2020.
This order is administered by the Ministry of Health.