

Interim Order No. 5 Respecting Passenger Vessel Restrictions Due to the Coronavirus Disease 2019 (COVID-19)

From: Transport Canada

Whereas the Minister of Transport is of the opinion that the annexed *Interim Order No. 5 Respecting Passenger Vessel Restrictions Due to the Coronavirus Disease 2019 (COVID-19)* is required to deal with a direct or indirect risk to marine safety or to the marine environment;

And whereas the provisions of the annexed Order may be contained in a regulation made pursuant to subsection 120(1) ^a and paragraphs 136(1)(f) ^b and (h) ^b and 244(f) ^c of the *Canada Shipping Act, 2001* ^d;

Therefore, the Minister of Transport, pursuant to subsection 10.1(1) ^e of the *Canada Shipping Act, 2001* ^d, makes the annexed *Interim Order No. 5 Respecting Passenger Vessel Restrictions Due to the Coronavirus Disease 2019 (COVID-19)*.

Ottawa, March 1, 2021

Omar Alghabra

Minister of Transport

Interim Order No. 5 Respecting Passenger Vessel Restrictions Due to the Coronavirus Disease 2019 (COVID-19)

Definitions

Definitions

1 The following definitions apply in this Interim Order.

arctic waters means

(a) the Canadian waters located north of the 60th parallel of north latitude; and

(b) the territorial sea of Canada in the vicinity of Nunatsiavut, Nunavik and the Labrador coast. (*eaux arctiques*)

COVID-19 means the coronavirus disease 2019. (*COVID-19*)

ferry vessel means any vessel, having provision for deck passengers and for vehicles, that is operated on a short run on a schedule between two points over the most direct water route and offers a public service of a type normally attributed to a bridge or tunnel. (*transbordeur*)

Minister means the Minister of Transport. (*ministre*)

passenger vessel means a vessel, other than a ferry vessel, that is certified to carry more than 12 passengers as indicated on its inspection certificate or Passenger Ship Safety Certificate issued under the *Vessel Certificates Regulations* or on an equivalent certificate issued by a foreign government. (*bâtiment à passagers*)

passenger vessel that provides essential services means a passenger vessel that is set out in the schedule. (*bâtiment à passagers exploité pour fournir des services essentiels*)

Application

Application

2 This Interim Order applies to passenger vessels and ferry vessels.

Prohibition

Prohibition – Canadian waters other than arctic waters

3 It is prohibited to navigate, moor, anchor or berth in Canadian waters, other than arctic waters, if

(a) the passenger vessel is certified to carry more than 100 persons as indicated on its inspection certificate or Passenger Ship Safety Certificate issued under the *Vessel Certificates Regulations* or on an equivalent certificate issued by a foreign government; and

(b) the passenger vessel is equipped with berths or cabins for overnight travel by passengers.

Prohibition – arctic waters

4 It is prohibited for a passenger vessel to enter arctic waters from any other waters.

Exceptions

5 (1) Sections 3 and 4 do not apply to

(a) a vessel that is in distress or providing assistance to a vessel or person in distress;

(b) a vessel that is forced to navigate, moor, anchor or berth to avoid immediate danger;

(c) a vessel that is engaged in research and that is operated by or under the authority of the Government of Canada, or at its request, or operated by a provincial government, a local authority or a government,

council or other entity authorized to act on behalf of an Indigenous group;

(d) a vessel that carries

(i) employees of the Government of Canada or a provincial or territorial government, or

(ii) peace officers who require a transportation service in the course of performing their duties or functions;

(e) a foreign vessel in the territorial sea of Canada that is exercising the right of innocent passage in accordance with international law and article 19 of the *United Nations Convention on the Law of the Sea*, done at Montego Bay on 10 December 1982; and

(f) a vessel that is not in service.

Foreign vessels in certain waters

(2) Despite section 3, a foreign vessel may, in the Great Lakes, the Inside Passage, the St. Lawrence River, the Gulf of St. Lawrence or the St. Lawrence Seaway

(a) navigate, if passage is expeditious; and

(b) moor, berth or anchor if those activities are incidental to the passage.

Incidental activities

(3) For the purposes of paragraph (2)(b), mooring, anchoring or berthing is not an activity that is incidental to the passage if it is a technical stop. A technical stop includes embarkation, disembarkation, refuelling, resupplying, and restocking.

Passenger Vessels That Provide Essential Services and Ferry Vessels

Permission

6 (1) Sections 3 and 4 do not apply to a passenger vessel that provides essential services if

(a) the vessel, at all times, carries not more than 50 percent of the maximum number of passengers that it is certified to carry, as indicated on its inspection certificate or Passenger Ship Safety Certificate issued under the *Vessel Certificates Regulations* or on an equivalent certificate issued by a foreign government; or

(b) its authorized representative implements the measures to reduce transmission risks of COVID-19 set out in the Ship Safety Bulletin entitled *Measures to Mitigate the Spread of COVID-19 on Passenger Vessels and Ferries*, SSB No. 12/2020, published on April 17, 2020 by the Marine Safety Directorate of Transport Canada, as amended from time to time or as replaced.

Notice to the Minister

(2) The authorized representative of a vessel that implements measures in accordance with paragraph (1)(b) must notify the Minister, in writing, of the measures before implementing them and must keep a copy of the notice on board.

Guidelines

7 The authorized representative and master of a passenger vessel that provides essential services must make reasonable efforts to implement and put in place the measures contained in the guidelines that are set out in

the document entitled *COVID-19: Guidance Material for Passenger Vessel and Ferry Operators* published on April 17, 2020 by the Marine Safety Directorate of Transport Canada, as amended from time to time.

Ferry Vessels

8 The authorized representative and master of a ferry vessel must ensure that at least one of the requirements set out in section 6 is met and comply with the requirement set out in section 7.

Arctic Waters

Foreign vessels in arctic waters

9 (1) At least 60 days before the expected date of arrival in arctic waters of a vessel referred to in paragraph 5(1)(e), the master of the vessel must give written notice to the Minister of the arrival of the vessel in those waters.

Conditions

(2) The Minister may impose, in respect of a vessel for which notice has been given, any conditions that the Minister considers appropriate.

Responsibility of master

(3) The master must ensure that the vessel and its crew comply with any conditions that the Minister imposes.

Prohibition – Authorized Representative and Master

Prohibition

10 The authorized representative and master of a passenger vessel must not permit the vessel to contravene any of the restrictions or prohibitions set out in this Interim Order.

Ministerial Exemptions

Canada's international obligations and external affairs

11 The Minister may, in writing, exempt a passenger vessel from any of the restrictions or prohibitions set out in this Interim Order if

(a) after consulting with the Minister of Foreign Affairs, the Minister is of the opinion that the exemption is necessary to ensure

(i) that Canada meets its international obligations, or

(ii) the proper conduct of the external affairs of Canada; and

(b) after consulting with the Minister of Health, the Minister determines that navigation safety, public health and safety and the protection of the marine environment will, to the extent possible, be maintained.

Repair

12 (1) The Minister may, in writing, exempt a passenger vessel from any of the restrictions or prohibitions set out in this Interim Order if

(a) the vessel is navigating in Canadian waters for the purposes of repair; and

(b) after consulting with the chief public health officer of the province or territory concerned and with the Minister of Health, the Minister determines that navigation safety, public health and safety and the protection of the marine environment will, to the extent possible, be maintained.

60 days' notice

(2) At least 60 days before the expected date of arrival of the vessel in Canadian waters, the master must give written notice to the Minister of the arrival of the vessel in those waters.

Passenger Vessels

13 (1) The Minister may, in writing, exempt a passenger vessel from any of the restrictions or prohibitions set out in this Interim Order if

(a) after consulting with the government of the province or territory concerned, the Minister determines that

(i) that the exemption is necessary to allow for viable, effective and economical marine transportation and commerce, or

(ii) that it is not practical, under the circumstances, for the vessel to comply with the prohibition or restriction; and

(b) after consulting with the chief public health officer of the province or territory concerned and with the Minister of Health, the Minister determines that navigation safety, public health and safety and the protection of the marine environment will, to the extent possible, be maintained.

60 days' notice

(2) At least 60 days before the expected date of arrival of the vessel in Canadian waters, the master must give written notice to the Minister of the arrival of the vessel in those waters.

Application for exemption

14 (1) An authorized representative of a passenger vessel may apply to the Minister for an exemption under any of sections 11 to 13.

Conditions of exemption

(2) An exemption is subject to any conditions that the Minister considers appropriate.

Amending conditions

(3) The Minister may add, amend or remove conditions if the Minister determines that it is necessary to do so for the purposes of navigation safety, public health and safety or protection of the marine environment.

Exemption on board

(4) The exemption must be kept on board the vessel.

Suspension or revocation

(5) The Minister may suspend or revoke an exemption if

(a) the authorized representative knowingly provides false or misleading information to obtain the exemption;

(b) a condition that was attached to the exemption is not complied with, and the non-compliance constitutes a risk to navigation safety, public health or safety or to the marine environment; or

(c) the Minister determines it is necessary to do so for navigation safety, public health or safety or the protection of the marine environment.

Notice

(6) The Minister must give notice, in writing, of the suspension or revocation to the authorized representative of the vessel.

Publication – Canada Gazette

(7) Notice of every exemption issued under this Interim Order must be published in the Canada Gazette.

Enforcement

Persons ensuring compliance

15 (1) The following persons are authorized to ensure compliance with this Interim Order:

- (a)** marine safety inspectors;
- (b)** members of the Royal Canadian Mounted Police;
- (c)** members of any harbour or river police force; and
- (d)** members of any provincial, county or municipal police force.

Powers and duties

(2) A person who is authorized to ensure compliance with this Interim Order may

- (a)** prohibit the movement of any vessel or direct it to be moved;
- (b)** stop and board any vessel at any reasonable time and
 - (i)** direct any person to answer reasonable questions and provide reasonable assistance, and
 - (ii)** require any person to provide, for examination, any document that the person is required to have in their possession or that is required to be kept on board; and
- (c)** verify by any means that the requirements of this Interim Order are met.

Obligation to comply

16 A person or vessel must comply with any direction given to them or a requirement or prohibition imposed on them under subsection 15(2).

Schedule (Section 1): Passenger Vessels That Provide Essential Services

Item Vessels

- 1 A vessel operating to protect public health or safety or the marine environment including a vessel that is involved in
 - (a) search and rescue operations; or
 - (b) emergency or environmental response.

 - 2 A vessel that supports the activities of any of the following at their request:
 - (a) the Minister;
 - (b) the Minister of Fisheries and Oceans;
 - (c) a member of the Canadian Coast Guard; or
 - (d) a peace officer in the performance of their duties.
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* medical equipment, testing and laboratory services.

** primary health care services and pharmacies.

- 3 A vessel that operates when it is the most practical means to
- (a) give passengers access to their domicile or residence or their place of employment;
 - (b) give passengers access to essential goods and services, including
 - (i) goods or services directly related to the response to COVID-19*,
 - (ii) essential health services**, and
 - (iii) food, clean water, pharmaceuticals and fuel.
 - (c) transport cargo to resupply communities, businesses or industry; or
 - (d) give passengers access to services that are declared to be essential services by the Government of Canada, a provincial government, a local authority or a government, council or other entity authorized to act on behalf of an Indigenous group.

* medical equipment, testing and laboratory services.

** primary health care services and pharmacies.

a S.C. 2018, c. 27, s. 694

b S.C. 2005, c. 29, s. 18

c S.C. 2014, c. 29, s. 75(1)

d S.C. 2001, c. 26

e S.C. 2018, c. 27, s. 690

i Did you find this information helpful?

i Transport Canada is closely monitoring the COVID-19 situation. In response, we have issued some **transportation-related measures and guidance**. Please check if any of these measures apply to you.

You may experience longer than usual wait times or partial service interruptions. If you cannot get through, please **contact us by email**.

For information on COVID-19 updates, please visit **Canada.ca/coronavirus**.

Date modified:

2021-03-03