

Reprint
as at 21 June 2021



**COVID-19 Public Health Response (Maritime Border)
Order (No 2) 2020**
(LI 2020/240)

This order is made by the Minister of Health 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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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

This order is administered by the Ministry of Health.

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Order

1 Title

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

2 Commencement

This order comes into force at 11.59 pm on 6 September 2020.

Part 1
Preliminary provisions

3 Purpose

The purpose of this order is to prevent, and limit the risk of, an outbreak, or the spread, of COVID-19 by—

- (a) restricting which ships may arrive in New Zealand; and
- (b) continuing isolation and quarantine requirements for people who arrive in New Zealand by sea; and
- (c) enabling the safe transfer of crew.

Compare: LI 2020/134 cl 3

4 Interpretation

- (1) In this order, unless the context otherwise requires,—

Act means the COVID-19 Public Health Response Act 2020

aircraft has the same meaning as in section 2(1) of the Civil Aviation Act 1990
arrive in New Zealand,—

- (a) in relation to a person, means to enter into New Zealand from a point outside New Zealand by any means, whether lawfully or unlawfully; and

- (b) in relation to a ship, means to arrive in New Zealand from a point outside New Zealand,—
- (i) whether lawfully or unlawfully; and
 - (ii) whether or not the ship does any of the following:
 - (A) lands, berths, moors, anchors, or stops at any place within New Zealand;
 - (B) hovers above any place within New Zealand;
 - (C) otherwise arrives at any place within New Zealand

cargo ship means a ship that is a commercial craft and that is carrying primarily cargo into or out of New Zealand

crew—

- (a) means the persons employed or engaged in any capacity on board a ship; and
- (b) includes—
 - (i) a master; and
 - (ii) a person who is temporarily working on a ship; but
- (c) does not include a pilot or a person who undertakes a necessary task

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

depart from New Zealand, in relation to an aircraft or a ship,—

- (a) means to leave New Zealand to travel to a port or other place outside New Zealand; and
- (b) includes to travel to another port or place in New Zealand before leaving New Zealand

exclusive economic zone, in relation to New Zealand, has the same meaning as in section 9 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977

exempt crew member means a crew member who is exempt from the requirement to comply with clause 8 of the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 because of an exemption made by or under that order

fishing ship has the same meaning as in section 2(1) of the Maritime Transport Act 1994

foreign ship has the same meaning as in clause 1(1) of Schedule 5A of the Customs and Excise Act 2018

foreign State ship means—

- (a) a warship of any State other than New Zealand; and

- (b) a ship owned or operated by any State other than New Zealand, if the ship is being operated for non-commercial purposes

health practitioner has the same meaning as in section 5(1) of the Health Practitioners Competence Assurance Act 2003

health protection officer has the same meaning as in section 2(1) of the Health Act 1956

high seas has the same meaning as in clause 1(1) of Schedule 5A of the Customs and Excise Act 2018

Isolation and Quarantine Order means the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020

isolation or quarantine, in relation to a person on board a ship to which this order applies, means a requirement that the person—

- (a) remain on the ship; and
- (b) maintain physical distancing (to the greatest extent practicable) from every person who did not arrive in New Zealand on the ship

isolation or quarantine plan means a document specifying how a ship's master or its agent proposes that the people on board the ship will remain in isolation or quarantine in a safe and healthy way, including (without limitation)—

- (a) demonstrating that the ship has appropriate toilet and food preparation facilities; and
- (b) specifying—
 - (i) how food and drink will be supplied to the ship; and
 - (ii) how people on board the ship will access laundry and other necessary services; and
 - (iii) a process for checking on the welfare of the people on board the ship

last contact—

- (a) means the most recent physical contact between a person who arrives in New Zealand on board a ship (**person A**) and any other person not on board the ship when it arrives in New Zealand (**person B**); and
- (b) includes person A's most recent physical contact with person B—
 - (i) during a change to the ship's crew; or
 - (ii) at an offshore location; but
- (c) excludes—
 - (i) physical contact between person A and person B during a change to the ship's crew, if person B is a new crew member coming on board the ship and has completed the period of isolation or quarantine required by New Zealand law as in force at the time person A arrives in New Zealand; and

- (ii) physical contact that person A has with person B while person B is a person who undertakes a necessary task

low-risk indicators, for a person, means the following indicators:

- (a) the person—
 - (i) has undergone testing and medical examination for COVID-19 with a negative result; or
 - (ii) has been determined by a medical officer of health or health protection officer to have particular physical or other needs that make it inappropriate for them to have the testing and medical examination; and
- (b) other information or medical tests relating to the person (if any) indicate that the person is at low risk of having or transmitting COVID-19

master has the same meaning as in section 2(1) of the Maritime Transport Act 1994

medical officer of health has the same meaning as in section 2(1) of the Health Act 1956

new person—

- (a) means a person who has—
 - (i) arrived in New Zealand; and
 - (ii) not yet completed the period of isolation or quarantine required by New Zealand law as in force at the time at which the person arrived in New Zealand; and
- (b) includes an exempt crew member

New Zealand citizen has the same meaning as in section 4 of the Immigration Act 2009

New Zealand Government ship has the same meaning as in section 2(1) of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977

New Zealand ship has the same meaning as in clause 1(1) of Schedule 5A of the Customs and Excise Act 2018

offshore installation has the same meaning as in section 222(1) of the Maritime Transport Act 1994

person who undertakes a necessary task, in relation to a person who boards a ship (other than a crew member), means the following persons acting in the normal course of their work:

- (a) an enforcement officer;
- (b) a pilot;
- (c) a Maritime New Zealand employee acting—

- (i) under delegated authority under section 443 of the Maritime Transport Act 1994; or
- (ii) in accordance with their appointment as an inspector under section 163 of the Health and Safety at Work Act 2015:
- (ca) a health practitioner (as that term is defined in section 5(1) the Health Practitioners Competence Assurance Act 2003)
- (d) a Customs officer:
- (e) an immigration officer (as that term is defined in section 4 of the Immigration Act 2009):
- (f) an inspector appointed under section 103 of the Biosecurity Act 1993:
- (g) a fishery officer (as that term is defined in section 2(1) of the Fisheries Act 1996):
- (h) an observer appointed under section 223(2) of the Fisheries Act 1996:
- (i) a person helping with loading, unloading, or otherwise expediting the movement of freight by ship or the essential business of a ship, including (without limitation)—
 - (i) an agent:
 - (ii) a stevedore:
 - (iii) a foreman:
 - (iv) a member of port or portside staff:
 - (v) a provider of logistics or other cargo-related services:
- (j) a person helping with a task necessary for the safe operation and seaworthiness of a ship, including (without limitation)—
 - (i) a commercial surveyor:
 - (ii) a flag State inspector:
 - (iii) a classification society representative:
 - (iv) a service engineer:
- (k) an emergency worker:
- (l) a person assisting with the provisioning or welfare of a ship's crew, including (without limitation) a chaplain or a seafarer welfare advocate

physical distancing, from other persons, means remaining at least 2 metres away from them

pilot has the same meaning as in section 2(1) of the Maritime Transport Act 1994

place of isolation or quarantine has the same meaning as in the Isolation and Quarantine Order

port has the same meaning as in section 2(1) of the Maritime Transport Act 1994

security designated aerodrome has the same meaning as in section 2(1) of the Civil Aviation Act 1990

ship has the same meaning as in section 2(1) of the Maritime Transport Act 1994

territorial sea, in relation to New Zealand, has the same meaning as in section 3 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977

United Nations Convention on the Law of the Sea has the same meaning as Convention in section 2 of the United Nations Convention on the Law of the Sea Act 1996

warship has the same meaning as in section 2(1) of the Maritime Transport Act 1994.

- (2) For the purposes of the definition of last contact in subclause (1), person A is treated as having physical contact with person B once person B boards the ship while person A is on board, whether or not they have actual physical contact on board.

Compare: LI 2020/134 cl 4

Clause 4(1) **Customs officer**: inserted, at 11.59 pm on 23 December 2020, by clause 4(1) of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order 2020 (LI 2020/329).

Clause 4(1) **exempt crew member**: replaced, at 11.59 pm on 20 December 2020, by clause 19(2) of the COVID-19 Public Health Response (Air Border and Isolation and Quarantine) Amendment Order (No 2) 2020 (LI 2020/330).

Clause 4(1) **isolation or quarantine** paragraph (b): amended, at 11.59 pm on 21 June 2021, by clause 4(1) of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order (No 2) 2021 (LI 2021/158).

Clause 4(1) **last contact**: replaced, at 11.59 pm on 21 June 2021, by clause 4(2) of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order (No 2) 2021 (LI 2021/158).

Clause 4(1) **person who undertakes a necessary task** paragraph (ca): inserted, at 11.59 pm on 23 December 2020, by clause 4(3) of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order 2020 (LI 2020/329).

Clause 4(1) **person who undertakes a necessary task** paragraph (d): amended, at 11.59 pm on 23 December 2020, by clause 4(2) of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order 2020 (LI 2020/329).

Clause 4(2): inserted, at 11.59 pm on 21 June 2021, by clause 4(3) of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order (No 2) 2021 (LI 2021/158).

5 Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1 have effect according to their terms.

Compare: LI 2020/134 cl 5

6 Application of order

This order applies to the whole of New Zealand.

7 Relationship with certain requirements and immunities

- (1) Nothing in this order limits or affects any immigration requirements under any enactment.
- (2) Nothing in this order limits or affects the immunities of a foreign State ship or its crew.

Compare: LI 2020/134 cl 7

Part 2
Ships arriving in New Zealand

New Zealand ships and foreign ships

8 New Zealand ships and New Zealand warships

A New Zealand ship or a New Zealand warship is not permitted to arrive in New Zealand unless the master of the ship is reasonably satisfied that every person on board the ship is—

- (a) a New Zealand citizen; or
- (b) a person who may travel to and be in New Zealand under section 14(1) of the Immigration Act 2009 (which relates to visa requirements for persons other than New Zealand citizens).

Compare: LI 2020/134 cl 8

9 Foreign ships

- (1) Foreign ships are not permitted to arrive in New Zealand.
- (2) Despite subclause (1), a foreign ship is permitted to exercise, in accordance with the United Nations Convention on the Law of the Sea, the right of —
 - (a) innocent passage through the territorial sea; or
 - (b) transit passage through straits used for international navigation.

Compare: LI 2020/134 cl 9

Exemptions

10 Exemptions from clause 9

- (1) Despite clause 9(1),—
 - (a) a foreign ship on which every person on board is a New Zealand citizen is permitted to arrive in New Zealand; and
 - (b) the foreign ships specified in subclause (2) are permitted to arrive in New Zealand if every person on board is—
 - (i) a New Zealand citizen; or

- (ii) a person who may travel to and be in New Zealand under section 14(1) of the Immigration Act 2009 (which relates to visa requirements for persons other than New Zealand citizens).
- (2) For the purposes of subclause (1)(b), the foreign ships are—
- (a) a cargo ship that is arriving in New Zealand for the purpose of loading or unloading cargo:
 - (b) a fishing ship that is—
 - (i) unloading its catch; or
 - (ii) reprovisioning or refuelling, or both; or
 - (iii) embarking or disembarking its crew under Part 4:
 - (c) a foreign State ship that has been granted diplomatic clearance by the Ministry of Foreign Affairs and Trade:
 - (d) a ship that has been granted permission to arrive in New Zealand by the Director-General in accordance with clause 11.

Compare: LI 2020/134 cl 10

Clause 10(1)(b): amended, at 11.59 pm on 23 December 2020, by clause 5(1) of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order 2020 (LI 2020/329).

Clause 10(2): amended, at 11.59 pm on 23 December 2020, by clause 5(2) of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order 2020 (LI 2020/329).

Clause 10(2)(d): amended, at 11.59 pm on 23 December 2020, by clause 5(3) of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order 2020 (LI 2020/329).

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.

Clause 11: replaced, at 11.59 pm on 23 December 2020, by clause 6 of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order 2020 (LI 2020/329).

12 Matters relevant to Director-General giving permission under clause 11

- (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 determining whether to give permission under clause 11(1)(c), the Director-General may take into account the following matters:
 - (a) the right of a New Zealand citizen to enter and be in New Zealand at any time under section 13(1) of the Immigration Act 2009; and
 - (b) the welfare of the persons on board the ship; and

- (c) the impact that not granting permission for the ship to arrive in New Zealand would have on the persons on board the ship; and
 - (d) any other matter that the Director-General considers relevant.
- (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.
- (3) The Director-General must consult any relevant agencies before permitting a ship to arrive in New Zealand under clause 11(1), including (without limitation)—
- (a) Maritime New Zealand; and
 - (b) the Ministry of Business, Innovation, and Employment; and
 - (c) the Ministry of Transport; and
 - (d) the New Zealand Customs Service.

Compare: LI 2020/134 cl 10(2)(e), (f)

Clause 12(1): replaced, at 11.59 pm on 23 December 2020, by clause 7(1) of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order 2020 (LI 2020/329).

Clause 12(2): amended, at 11.59 pm on 21 June 2021, by clause 5 of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order (No 2) 2021 (LI 2021/158).

Clause 12(2): amended, at 11.59 pm on 23 December 2020, by clause 7(2) of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order 2020 (LI 2020/329).

Clause 12(2A): inserted, at 11.59 pm on 23 December 2020, by clause 7(3) of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order 2020 (LI 2020/329).

13 Exemption for ships in distress

Clauses 8 and 9(1) do not apply to a ship if—

- (a) the ship is in distress; or
- (b) it is necessary for the ship to arrive in New Zealand to preserve human life.

Compare: LI 2020/134 cl 11

Requirement to give notice of arrival

14 Master to give notice of arrival

- (1) This clause applies to the master of a ship that is—
- (a) permitted to arrive in New Zealand under clause 8, 10(1), or 11(1); and
 - (b) travelling to New Zealand.
- (2) The master must give at least 168 hours' notice before the ship arrives in New Zealand.

- (3) However, if it is not practicable for the master to give at least 168 hours' notice of arrival, the master must instead give notice when the ship departs for New Zealand from a port or other place outside New Zealand.
- (4) A notice of arrival must be completed and delivered in the manner and form specified by the Director-General under clause 15.
- (5) The master must provide an update of progress before arrival if requested by an enforcement officer.
- (6) Nothing in this clause limits or affects the need to comply with the following requirements:
 - (a) notice requirements under the Biosecurity Act 1993;
 - (b) notice requirements under the Customs and Excise Act 2018;
 - (c) any other lawful requirement to give notice of the intended arrival of a ship in New Zealand.

15 Form and content of notice of arrival

- (1) The Director-General must specify the form of a notice of arrival and the manner in which—
 - (a) the form is to be completed; and
 - (b) notice is to be given.
- (2) A notice of arrival must contain the following information:
 - (a) information about the ship, including—
 - (i) the name of the ship; and
 - (ii) its country of registration; and
 - (iii) any relevant registration number; and
 - (b) information about the ship's voyage, including—
 - (i) the intended port or other place of arrival in New Zealand; and
 - (ii) the estimated time and date of arrival in New Zealand; and
 - (iii) the port or other place outside New Zealand that the ship has most recently visited; and
 - (iv) the time at which and date on which the ship departed from that port or other place; and
 - (v) whether any person boarded the ship after it departed from that port or other place, whether or not they are on board when the ship arrives in New Zealand; and
 - (c) information about the persons on board the ship, including—
 - (i) the name of the ship's master; and
 - (ii) the numbers of crew and passengers on board the ship; and

- (iii) the number of people wishing to disembark the ship in New Zealand; and
 - (d) information about whether, to the best knowledge of the ship's master,—
 - (i) any person on board the ship has had, in the 14 days prior to the notice being given, symptoms that suggest the presence of COVID-19; and
 - (ii) any person on board the ship is currently experiencing any symptoms that suggest the presence of COVID-19.
- (3) A notice of arrival may contain any other information that the Director-General thinks necessary for the purpose of clause 14.
- (4) The Director-General must publish the form on a publicly accessible Internet site maintained by or on behalf of the New Zealand Government.

Clause 15(2)(b)(v): replaced, at 11.59 pm on 21 June 2021, by clause 6 of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order (No 2) 2021 (LI 2021/158).

Part 3

Isolation or quarantine

Requirement to be isolated or quarantined

16 Master to ensure awareness of isolation or quarantine requirements

The master of any ship intending to arrive in New Zealand must, before the ship arrives in New Zealand, take reasonable steps to ensure that every person on board the ship is aware of the isolation or quarantine requirements under this Part.

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 this order.
- (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 a medical officer of health or health protection officer verifies that 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.
- (4A) However, subclause (1) does not apply to a person who arrives in New Zealand on board a ship that, since it last departed from a port or place in New Zealand, travelled only within New Zealand's exclusive economic zone, if—
 - (a) no person on board the ship is otherwise required by a COVID-19 order to be isolated or quarantined on their arrival in New Zealand; and
 - (b) no person on board the ship came into contact with any person who was not part of the voyage, unless the contact was approved in advance (with or without conditions) by the Director-General; and
 - (c) the alert level status for the port or place of the ship's last departure from a port or place in New Zealand, at the time of departure, was alert level 1.
- (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.

Clause 17: replaced, at 11.59 pm on 23 December 2020, by clause 8 of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order 2020 (LI 2020/329).

Clause 17(1)(b): amended, at 11.59 pm on 21 June 2021, by clause 7(1) of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order (No 2) 2021 (LI 2021/158).

Clause 17(2): amended, at 11.59 pm on 21 June 2021, by clause 7(2) of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order (No 2) 2021 (LI 2021/158).

Clause 17(2): amended, at 11.59 pm on 21 June 2021, by clause 7(3) of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order (No 2) 2021 (LI 2021/158).

Clause 17(4A): inserted, at 11.59 pm on 21 June 2021, by clause 7(4) of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order (No 2) 2021 (LI 2021/158).

18 Persons isolated or quarantined on ship may be transferred to place of isolation or quarantine

- (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) An officer may transfer a person under subclause (1) at any time during the period in which the person is in isolation or quarantine in accordance with clause 17(1).
- (3) In this clause, **authorised officer** means—
- (aaa) a Customs officer; and
 - (a) a medical officer of health or a health protection officer; and
 - (b) any other enforcement officer acting on the direction of that medical officer of health or health protection officer.

Compare: LI 2020/134 cl 12(5), (6)

Clause 18(1): replaced, at 11.59 pm on 23 December 2020, by clause 9(1) of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order 2020 (LI 2020/329).

Clause 18(3)(aaa): inserted, at 11.59 pm on 23 December 2020, by clause 9(2) of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order 2020 (LI 2020/329).

Exemptions for persons disembarking ship

19 Requirements for disembarking

- (1) A person who arrives in New Zealand on board a ship ends their period of isolation or quarantine only if a medical officer of health or a health protection officer is 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.
- (1A) The person need not disembark in order to end their period of isolation or quarantine.
- (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) Subclause (4) applies if—
- (a) the medical officer of health or the health protection officer is not satisfied that the criteria specified in subclause (2) are met; and
 - (b) the person wishes to disembark the ship.

- (4) The officer may transfer the person 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.

Clause 19 heading: replaced, at 11.59 pm on 21 June 2021, by clause 8(1) of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order (No 2) 2021 (LI 2021/158).

Clause 19(1): replaced, at 11.59 pm on 21 June 2021, by clause 8(2) of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order (No 2) 2021 (LI 2021/158).

Clause 19(1A): inserted, at 11.59 pm on 21 June 2021, by clause 8(2) of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order (No 2) 2021 (LI 2021/158).

Clause 19(2): replaced, at 11.59 pm on 23 December 2020, by clause 10(2) of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order 2020 (LI 2020/329).

Clause 19(4): amended, at 11.59 pm on 23 December 2020, by clause 10(3) of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order 2020 (LI 2020/329).

20 Certain arrivals not required to complete period of isolation or quarantine to disembark

Medical officer of health or health protection officer may permit disembarkation

- (1) Despite clause 19(2)(a), a person who has not completed the period of isolation or quarantine under clause 17(1) may disembark the ship on which they arrived in New Zealand—
- (a) if it is necessary for the person to do so to preserve or protect a person's life, health, or safety in an emergency; or
 - (b) if it is necessary for the person to do so to attend a court, tribunal, New Zealand Parole Board hearing, or other judicial institution that the person is required or permitted to attend by that institution; or
 - (c) if a medical officer of health or a health protection officer is satisfied it is necessary for the person to do so to access medical services; or
 - (d) if the person is required to do so under Part 4 of the Health Act 1956; or
 - (e) if the person is required by an enforcement officer to move to a temporary or emergency place of isolation or quarantine (for example, if necessary for care while sick); or
 - (f) if the person is required to move to a place of isolation or quarantine in compliance with—
 - (i) a court order; or
 - (ii) any other obligations imposed by or under any enactment that are related to the detention of the person (for example, a direction of the New Zealand Parole Board or a probation officer); or
 - (g) if it is necessary for the person to do so to assist or accompany a child or other person to travel to or from a place of isolation or quarantine or under any of paragraphs (b) to (f).

- (2) However, the permissions specified in subclause (1) apply only if the person has, where practicable, complied with any reasonable directions of, or reasonable conditions imposed by, an enforcement officer.

Director-General may permit disembarkation for exceptional reason

- (3) Despite clause 19(2)(a), the Director-General may permit a person who has not completed the period of isolation or quarantine under clause 17(1) to disembark the ship on which they arrived in New Zealand if it is necessary for the person to do so for an exceptional reason.
- (4) Before authorising a person to disembark under subclause (3), the Director-General must—
- (a) take into account any impact that the person's disembarking from the ship might have on the risk of an outbreak, or the spread, of COVID-19; and
 - (b) be satisfied, on the basis of the advice of a suitably qualified health practitioner, that the person, and every other person on the ship,—
 - (i) meets the low-risk indicators; and
 - (ii) has not, in the previous 14 days, experienced any symptoms that suggest the presence of COVID-19; and
 - (c) be satisfied that the person will comply with any conditions of the authorisation.
- (5) The Director-General may impose a condition on a permission granted under subclause (3).

Compare: LI 2020/134 cl 14

Clause 20(1): amended, at 11.59 pm on 23 December 2020, by clause 11(1) of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order 2020 (LI 2020/329).

Clause 20(3): amended, at 11.59 pm on 23 December 2020, by clause 11(2) of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order 2020 (LI 2020/329).

21 Person may disembark to undertake essential task

- (1) Despite clause 19(1), a person may disembark the ship on which they arrived in New Zealand to undertake an essential task on, or immediately adjacent to, that ship, including (without limitation)—
- (a) loading and unloading cargo from the ship;
 - (b) maintaining the ship;
 - (c) undertaking safety checks on the ship;
 - (d) undertaking necessary preparations of the ship (for example, rigging gangways);
 - (e) reporting for and undergoing required testing and medical examination for COVID-19.
- (2) A person who disembarks a ship in accordance with subclause (1)—

- (a) must take reasonable steps to minimise the risk of spreading COVID-19, including by—
 - (i) remaining as close as is reasonably practicable to the ship; and
 - (ii) maintaining physical distancing (to the greatest extent practicable) from any person who did not arrive in New Zealand on the same ship; and
 - (iii) wearing personal protective equipment if it is necessary for the person to come into close contact with another person who did not arrive in New Zealand on the same ship; and
 - (iv) following the directions of an enforcement officer; and
 - (b) may do so only to undertake an essential task and may not undertake any other tasks or activities while disembarked.
- (3) A breach of subclause (2)(a) or (b) is an infringement offence for the purposes of section 26(3) of the Act.

Compare: LI 2020/134 cl 13

Testing and medical examination

22 Obligation to undergo testing and medical examination

- (1) A person who arrives in New Zealand on board a ship must report for and undergo testing and medical examination, if directed by a medical officer of health or a health protection officer, at any time during their required period of isolation or quarantine.
- (2) Without limiting subclause (1), a medical officer of health or a health protection officer may require a person to report for and undergo testing and medical examination in order to assess, in accordance with this order, whether the person meets the low-risk indicators.
- (3) Testing and medical examination under subclauses (1) and (2) means testing and medical examination that—
 - (a) must involve taking nose swabs or mouth swabs (or both); and
 - (b) may involve—
 - (i) taking temperatures:
 - (ii) carrying out chest auscultation:
 - (iii) seeking and obtaining information about symptoms.

Clause 22(2): amended, at 11.59 pm on 23 December 2020, by clause 12 of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order 2020 (LI 2020/329).

22A Testing of crew leaving ship to depart New Zealand by air

- (1) A crew member leaving their ship to depart from New Zealand by air must, before departing from New Zealand by air, comply with subclause (2).

- (2) The crew member meets the requirement in subclause (1) by undertaking a COVID-19 test in the manner described in clause 22(3) no earlier than 72 hours before the scheduled departure of their flight.
- (3) The crew member must produce evidence that they have undergone a COVID-19 Test when requested by 1 or more of the following:
 - (a) a health protection officer:
 - (b) a staff member or representative of the relevant air carrier:
 - (c) an immigration officer:
 - (d) an enforcement officer.

Clause 22A: inserted, at 11.59 pm on 21 June 2021, by clause 9 of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order (No 2) 2021 (LI 2021/158).

Isolation or quarantine in accordance with Isolation and Quarantine Order

23 Transfer to place of isolation or quarantine and start time

- (1) A person who is transferred to a place of isolation or quarantine under clause 18(1), 19(4), 20(1)(e) or (f), 26(3), 27(3), or 28(2) or (5) must be isolated or quarantined in accordance with the Isolation and Quarantine Order.
- (2) A person's start time for the purpose of clause 10(2)(b) of the Isolation and Quarantine Order is as follows:
 - (a) if clause 18(1), 20(1)(e) or (f), 26(3), 27(3), or 28(2) or (5) of this order applies, and the person is in isolation or quarantine immediately before the transfer, the more recent of the following times and dates:
 - (i) the time at which and date on which the ship last departed for New Zealand from a port or other place outside New Zealand:
 - (ii) the time and date of the person's last contact:
 - (b) if clause 19(4) of this order applies, the time at which and date on which the person arrives at their place of isolation or quarantine under the Isolation and Quarantine Order:
 - (c) in any other case, the time at which and date on which the person arrives in New Zealand.

Compare: LI 2020/134 cl 20

Clause 23(2)(a)(ii): amended, at 11.59 pm on 21 June 2021, by clause 10 of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order (No 2) 2021 (LI 2021/158).

Ships in isolation or quarantine

24 Ships in isolation or quarantine

- (1) This clause applies if a person remains in isolation or quarantine on board a ship.
- (2) No person may board the ship, except a person who undertakes a necessary task.

- (3) No person may disembark the ship, except a person who undertakes a necessary task or as provided in this order.
- (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 relevant port company must ensure that prescribed isolation and quarantine signage is visible and secure—
 - (a) immediately adjacent to every point of egress between the ship and shore; and
 - (b) in a manner that can be seen easily by anyone intending to use any of those points of egress.
- (4B) However, an enforcement officer may exempt the port company from the requirement specified in subclause (4A).
- (5) A breach of subclause (2), (4), or (4A) is an infringement offence for the purposes of section 26(3) of the Act.
- (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.

Compare: LI 2020/134 cl 21

Clause 24(1): replaced, at 11.59 pm on 23 December 2020, by clause 13(1) of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order 2020 (LI 2020/329).

Clause 24(3): amended, at 11.59 pm on 23 December 2020, by clause 13(2) of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order 2020 (LI 2020/329).

Clause 24(4): replaced, at 11.59 pm on 23 December 2020, by clause 13(3) of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order 2020 (LI 2020/329).

Clause 24(4A): replaced, at 11.59 pm on 21 June 2021, by clause 11 of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order (No 2) 2021 (LI 2021/158).

Clause 24(4B): replaced, at 11.59 pm on 21 June 2021, by clause 11 of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order (No 2) 2021 (LI 2021/158).

Clause 24(5): amended, at 11.59 pm on 23 December 2020, by clause 13(4) of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order 2020 (LI 2020/329).

Clause 24(6): inserted, at 11.59 pm on 23 December 2020, by clause 13(5) of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order 2020 (LI 2020/329).

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.

Clause 25: replaced, at 11.59 pm on 23 December 2020, by clause 14 of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order 2020 (LI 2020/329).

Clause 25(1)(b): amended, at 11.59 pm on 21 June 2021, by clause 12 of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order (No 2) 2021 (LI 2021/158).

Part 4 Exemptions for arriving and departing crew

Crew departing New Zealand

26 Exemption for certain crew departing New Zealand

- (1) This clause applies to a crew member who—
 - (a) wishes to—
 - (i) disembark the ship on which the crew member arrived in New Zealand; or
 - (ii) leave the place of isolation or quarantine to which the crew member is transferred after arriving in New Zealand; and
 - (b) wishes to depart from New Zealand; and
 - (c) has not completed their required period of isolation or quarantine in accordance with clause 17(1).
- (2) Despite clauses 17(1), 19(1), and 23(1) of this order and anything in the Isolation and Quarantine Order, the crew member may travel directly from the ship or the place of isolation or quarantine—
 - (a) to the nearest security designated aerodrome to board an aircraft that is scheduled to depart from New Zealand on the same day; or

- (b) to board a ship as close to the time of departure as is reasonably practicable.
- (3) A medical officer of health or a health protection officer must transfer the crew member to a place of isolation or quarantine for the purpose of the crew member completing their period of isolation or quarantine as required by clause 23 if—
 - (a) the international flight that the crew member wishes to board does not depart from New Zealand on the same day that the crew member disembarks the ship; or
 - (b) the ship that the crew member wishes to board does not depart from New Zealand as soon as is reasonably practicable.
- (4) A crew member transferred under subclause (3) may leave their place of isolation or quarantine to—
 - (a) travel to the nearest security designated aerodrome to board an aircraft that is scheduled to depart from New Zealand on the same day; or
 - (b) board a ship as close to the time of departure as is reasonably practicable.
- (5) A crew member or an organisation representing the crew member must—
 - (a) give at least 96 hours' notice to an enforcement officer that the crew member is required to transfer to a place of isolation or quarantine; and
 - (b) advise an enforcement officer as soon as practicable of any changes to time frames related to the crew member's travel.

Compare: LI 2020/134 cl 16

Clause 26(2)(b): amended, at 11.59 pm on 23 December 2020, by clause 15(1) of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order 2020 (LI 2020/329).

Clause 26(4)(b): amended, at 11.59 pm on 23 December 2020, by clause 15(2) of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order 2020 (LI 2020/329).

Crew arriving in New Zealand

27 Exempt crew members arriving in New Zealand by air

- (1) This clause applies to an exempt crew member who has arrived in New Zealand—
 - (a) at a security designated aerodrome on board an aircraft; and
 - (b) for the purpose of—
 - (i) boarding a ship that is scheduled to depart from New Zealand as soon as is reasonably practicable; and
 - (ii) departing from New Zealand as a crew member of that ship.
- (2) The exempt crew member may travel from the security designated aerodrome to the departing ship.

- (3) If the ship does not depart from New Zealand as soon as is reasonably practicable, a medical officer of health or a health protection officer may transfer the crew member to a place of isolation or quarantine for the purpose of the crew member completing their period of isolation or quarantine as required by clause 23 or until the ship departs, whichever happens first.

Compare: LI 2020/134 cl 17

Clause 27(3): amended, at 11.59 pm on 23 December 2020, by clause 16 of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order 2020 (LI 2020/329).

28 Other crew members who arrive in New Zealand by air

Crew of ships departing New Zealand but not as soon as is reasonably practicable

- (1) Subclause (2) applies to a crew member who has arrived in New Zealand—
- (a) at a security designated aerodrome on board an aircraft; and
 - (b) for the purpose of boarding a ship that is scheduled to depart from New Zealand but not as soon as is reasonably practicable.
- (2) The crew member must travel from the security designated aerodrome to a place of isolation or quarantine for the purpose of the crew member completing their period of isolation or quarantine as required by clause 23 or until the ship departs, whichever happens first.
- (3) To avoid doubt, clause 26(1) and (2) applies to a crew member specified in subclause (1).

Crew of ships not departing New Zealand

- (4) Subclause (5) applies to a crew member who has arrived in New Zealand—
- (a) at a security designated aerodrome on board an aircraft; and
 - (b) for the purpose of boarding a ship that is scheduled to travel to another port or place in New Zealand without departing from New Zealand.
- (5) The crew member must travel from the security designated aerodrome to a place of isolation or quarantine for the purpose of the crew member completing their period of isolation or quarantine as required by clause 23.

Compare: LI 2020/134 cl 18

29 Requirements relating to crew members who travel to or from security designated aerodrome, ship, or place of isolation or quarantine

- (1) A crew member of a ship who, under this order, is required to travel from a ship, a security designated aerodrome, or a place of isolation or quarantine to a security designated aerodrome, a departing ship or another ship, or a place of isolation or quarantine must do so—
- (a) in accordance with directions of the chief executive of the Ministry of Business, Innovation, and Employment, given on advice from a medical officer of health or a health protection officer; and

- (b) as quickly and directly as is reasonably practicable.
- (2) A breach of subclause (1)(a) or (b) is an infringement offence for the purposes of section 26(3) of the Act.

Compare: LI 2020/134 cl 16(4), 17(3), 18(3)

Clause 29(1): amended, at 11.59 pm on 23 December 2020, by clause 17 of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order 2020 (LI 2020/329).

Part 5

Other exemptions and revocation

Other exemptions

30 Exemption from clauses 14 to 23

Persons on the following ships are exempt from clauses 14 to 23:

- (a) a New Zealand Government ship:
- (b) a New Zealand warship:
- (c) a foreign State ship.

Compare: LI 2020/134 cl 15

31 Exemption from Parts 2 and 3

- (1) Parts 2 and 3 do not apply to a ship during the time that it is carrying out any of the permitted shipping movements specified in subclause (2), if all persons on board the ship to whom clause 17(1) applies have completed the required period of isolation or quarantine.
- (2) The permitted shipping movements are—
 - (a) arriving in New Zealand, if the ship was previously at a New Zealand port and left New Zealand only to do 1 or both of the following:
 - (i) support an offshore installation:
 - (ii) support another ship operating offshore:
 - (b) entering a New Zealand port, if the ship—
 - (i) is a fishing ship; and
 - (ii) was previously at a New Zealand port; and
 - (iii) left New Zealand to operate in 1 or more of the following:
 - (A) New Zealand's exclusive economic zone:
 - (B) the high seas:
 - (C) the exclusive economic zone of another State:
 - (c) arriving in another New Zealand port from a port in the Chatham Islands, if the ship was previously at another New Zealand port and travelled only to the Chatham Islands port.

- (3) The movement specified in subclause (2)(a) is a permitted shipping movement only if no person on the ship has interacted with a person from another ship or place other than those that the ship is supporting.
- (4) The movement specified in subclause (2)(b) is a permitted shipping movement only if—
 - (a) no person on the ship has interacted with a person from another ship; and
 - (b) no crew member has embarked or disembarked since the ship was previously at a New Zealand port.
- (5) The permitted shipping movements specified in subclause (2) are subject to compliance with reasonable directions given by an enforcement officer for the purpose of this clause.

Compare: LI 2020/134 cl 22

31A Power for Minister to grant exemptions from this order

- (1) The Minister may exempt any person or class of persons from the requirement to comply with any provision of this order or the application of any provision of this order if the Minister is satisfied that—
 - (a) the exemption is necessary or desirable in order to promote the purposes of the Act or the purposes of this order; and
 - (b) the extent of the exemption is not broader than is reasonably necessary to address the matters giving rise to the exemption.
- (2) The Minister may impose conditions on the exemption as the Minister considers necessary.
- (3) The Minister must take into account the advice of the Director-General when deciding—
 - (a) whether to grant an exemption; and
 - (b) what (if any) conditions to impose on an exemption.
- (4) An exemption for any specified person must be notified in writing to the applicant and the exempt person.
- (5) An exemption for any class of persons must—
 - (a) be published on a publicly accessible Internet site maintained by or on behalf of the New Zealand Government; and
 - (b) be notified in the *Gazette*.

Clause 31A: inserted, at 11.59 pm on 4 March 2021, by clause 4 of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order 2021 (LI 2021/32).

32 Revocation

The COVID-19 Public Health Response (Maritime Border) Order 2020 (LI 2020/134) is revoked.

Compare: LI 2020/134 cl 23

Schedule 1
Transitional, savings, and related provisions

cl 5

Part 1
Provisions relating to this order as made

1 Effect of existing isolation or quarantine requirements

- (1) Any ship or person subject to a specified period of isolation or quarantine under the COVID-19 Public Health Response (Maritime Border) Order 2020 immediately before the commencement of this order must comply with the corresponding requirement in this order, and time spent in isolation or quarantine during that period counts for the purpose of this order.
- (2) Every permission granted by the Director-General under clause 10(2)(e) or (f) of the COVID-19 Public Health Response (Maritime Border) Order 2020 continues to have effect as if granted under clause 11(1) of this order.

Dated at Wellington this 4th day of September 2020.

Hon Chris Hipkins,
Minister of Health.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 4 September 2020.

Reprints notes

1 *General*

This is a reprint of the COVID-19 Public Health Response (Maritime Border) Order (No 2) 2020 that incorporates all the amendments to that order as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order (No 2) 2021 (LI 2021/158)

COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order 2021 (LI 2021/32)

COVID-19 Public Health Response (Air Border and Isolation and Quarantine) Amendment Order (No 2) 2020 (LI 2020/330): clause 19

COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order 2020 (LI 2020/329)