

**Reprint
as at 6 September 2020**



**COVID-19 Public Health Response (Maritime Border)
Order 2020
(LI 2020/134)**

COVID-19 Public Health Response (Maritime Border) Order 2020: revoked, at 11.59 pm on 6 September 2020, by clause 32 of the COVID-19 Public Health Response (Maritime Border) Order (No 2) 2020 (LI 2020/240).

This order is made in accordance with sections 9 and 11 and clause 1 of Schedule 1 of the COVID-19 Public Health Response Act 2020 by the Minister of Health.

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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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Transitional, savings, and related provisions**Order****1 Title**

This order is the COVID-19 Public Health Response (Maritime Border) Order 2020.

2 Commencement

This order comes into force at 11.59 pm on 30 June 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) putting in place isolation or quarantine requirements for people who arrive in New Zealand by sea.

4 Interpretation

In this order, unless the context otherwise requires,—

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

Antarctic ship means a ship operated by or associated with a scientific programme or expedition under the auspices of a Contracting Party to the Antarctic Treaty (meaning the treaty defined in section 2(1) of the Antarctica Act 1960)

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

crew—

- (a) means the persons employed or engaged in any capacity on board a ship; and
- (b) includes a person who is temporarily working on a ship; and
- (c) includes a master; but
- (d) does not include a pilot or any other person who boards the ship in New Zealand

Director-General has the same meaning as in section 2(1) of the Health Act 1956

enforcement officer has the same meaning as in section 5(1) of the COVID-19 Public Health Response Act 2020

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

fishing ship means—

- (a) a ship used for catching fish or other living resources of the sea for profit; or
- (b) a ship that is recognised as being engaged in fisheries research by the Director of Maritime New Zealand under section 439 of the Maritime Transport Act 1994

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

high risk facility means a facility designated by a medical officer of health for the purposes of detaining people in a way appropriate for people with a high risk of transmitting COVID-19

internal waters, in relation to New Zealand, has the same meaning as in section 4 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977

isolation or quarantine, in relation to a ship that is subject to this order, means a requirement that a person on board the ship remain on the ship and minimise contact with any other person to mitigate the risk of an outbreak, or the spread, of COVID-19

low risk facility means a facility designated by a medical officer of health for the purposes of detaining people in a way appropriate for people with a low risk of transmitting COVID-19

managed facility means—

- (a) a high risk facility;
- (b) a low risk facility;
- (c) a place other than a high risk facility or low risk facility if a medical officer of health or a health protection officer considers that the use of the place is necessary due to the particular physical or other needs of a person required to be in isolation or quarantine

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 Zealand—

- (a) means—
 - (i) any land territory within the territorial limits of New Zealand; and
 - (ii) the internal waters of New Zealand; and
 - (iii) the territorial sea of New Zealand; and
- (b) includes, for the purposes of clauses 16 to 18, New Zealand's exclusive economic zone

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

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

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

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

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

5 Transitional, savings, and related provisions

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

6 Application of this order

- (1) This order applies to New Zealand.
- (2) Nothing in this order limits the immunities of a foreign State ship or its crew.

7 Order has no effect on other immigration requirements

- (1) Section 103 of the Immigration Act 2009 (which specifies obligations on persons arriving in New Zealand) applies to every person on board a ship that is permitted to arrive in New Zealand in accordance with this order.
- (2) Nothing in this order affects any immigration requirements under any enactment.

Part 2

Ships arriving in New Zealand

8 New Zealand ships and New Zealand warships

- (1) 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 non-New Zealand citizens).
- (2) In this clause, **New Zealand ship** has the same meaning as in section 2(1) of the Maritime Transport Act 1994.

9 Foreign ships

- (1) Foreign ships are not permitted to arrive in New Zealand.

- (2) Despite subclause (1), a foreign ship is permitted to arrive in New Zealand if it is exercising, 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.
- (3) In this clause,—
- foreign ship** has the same meaning as in clause 1(1) of Schedule 5A of the Customs and Excise Act 2018
- 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.

10 Ships exempt from application of clause 9

- (1) Despite clause 9, the ships specified in subclause (2) are permitted to arrive in New Zealand if 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 non-New Zealand citizens).
- (2) The specified ships are—
- (a) an Antarctic ship;
 - (b) a cargo ship that is arriving in New Zealand for the purpose of loading or unloading cargo;
 - (c) a fishing ship that is—
 - (i) unloading its catch; or
 - (ii) reprovisioning or refuelling, or both; or
 - (iii) embarking or disembarking its crew under clauses 16 to 18;
 - (d) a foreign State ship that has been granted diplomatic clearance by the Ministry of Foreign Affairs and Trade;
 - (e) a ship that meets the following requirements:
 - (i) there is a compelling need for the ship to arrive in New Zealand—
 - (A) for reprovisioning or refuelling, or both; or
 - (B) for the purpose of delivering the ship to a business, including for the purpose of repairing or refitting the ship; and
 - (ii) the Director-General has granted the ship permission to arrive in New Zealand;

- (f) a ship that has been granted permission to arrive in New Zealand by the Director-General (after consulting any relevant agencies) for humanitarian reasons or other compelling needs.
- (3) In this clause, **cargo ship** means a ship that is a commercial craft and that is carrying primarily cargo into or out of New Zealand.

11 Clauses 8 to 10 do not apply to ships in distress

Clauses 8 to 10 do not apply if—

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

Part 3 Isolation or quarantine

Requirement to be isolated or quarantined

12 Requirement to be isolated or quarantined

- (1) A person who arrives in New Zealand on board a ship may not disembark the ship except as permitted by subclauses (2) and (4) and clauses 13, 14, and 16.
- (2) If a person wishes to disembark the ship in order to enter and be in New Zealand under section 13(1) or 14(1)(b) of the Immigration Act 2009, the person must first remain in isolation or quarantine on the ship for at least 14 days.
- (3) For the purposes of subclause (2), the period of 14 days is counted as follows:
 - (a) if the ship is an Antarctic ship, the period of 14 days is counted from the more recent of—
 - (i) the time at which the ship was last at a port; and
 - (ii) the time at which the ship last took a person on board; and
 - (b) for all other ships, the period of 14 days is counted from the time at which the ship arrived in New Zealand.
- (4) However, if a new person joins a ship that has on board a person described in subclause (2), the period of 14 days described in subclause (3)—
 - (a) starts for the new person at the time the new person joins the ship; and
 - (b) starts again for the person described in subclause (2) at the time the new person joins the ship.
- (5) If a person is unable or unwilling to remain in isolation or quarantine on the ship on which the person arrived, a medical officer of health or a health protection officer may transfer the person to a managed facility for the purpose of remaining in isolation or quarantine there in accordance with clause 20(2).

- (6) A person who arrives in New Zealand on board a ship must report for, and submit to, medical examination and testing, if directed by a medical officer of health or a health protection officer, at any time during their required period of isolation or quarantine.
- (7) In this clause, **new person**—
- (a) means a person who has arrived in New Zealand and has not completed the required period of isolation or quarantine in accordance with this clause; and
 - (b) includes an excluded arrival within the meaning of clause 4(1) of the COVID-19 Public Health Response (Air Border) Order 2020.

13 Person may disembark ship to undertake essential task

- (1) A person may disembark from the ship on which they arrived to undertake an essential task, including (without limitation)—
- (a) loading and unloading cargo from the ship on which the person arrived;
 - (b) maintaining the ship on which the person arrived;
 - (c) undertaking safety checks;
 - (d) undertaking necessary preparations of the ship on which the person arrived (for example, rigging gangways).
- (2) A person who disembarks from a ship under subclause (1) to undertake an essential task must take reasonable steps to minimise the risk of spreading COVID-19, including—
- (a) remaining as close as is reasonably possible to the ship;
 - (b) maintaining physical distancing (to the greatest extent practicable) from any person who did not arrive in New Zealand on the same ship;
 - (c) 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;
 - (d) following the directions of an enforcement officer.

14 Person may disembark ship for certain purposes

- (1) A person is permitted to disembark from the ship on which they arrived—
- (a) if it is necessary to do so, as a matter of emergency, to preserve their own or any other person's life or safety; or
 - (b) if it is necessary to do so to access any court or tribunal; 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 required by a medical officer of health or a health protection officer to move to a managed facility; or
 - (e) if required to do so under Part 4 of the Health Act 1956; or

- (f) if required by a medical officer of health or a health protection officer to move to another temporary or emergency managed facility (for example, if necessary for care while sick); or
 - (g) if required to move to another managed facility 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
 - (h) to assist or accompany a child or other person to travel to or from a place under any of paragraphs (b) to (h), with the consent of a medical officer of health or a health protection officer.
- (2) However, the permissions specified in subclause (1) apply only if the person has, where practicable, advised, and complied with any reasonable directions of, an enforcement officer.
- (3) A person is also permitted to leave the ship on which they arrived for any exceptional reason, as authorised by the Director-General (with or without conditions).
- (4) Before authorising a person to leave under subclause (3), the Director-General must,—
- (a) if the Director-General has all the functions of a medical officer of health (or otherwise on the advice of a medical officer of health), take into account any impact that the person’s leaving 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 meets the low risk indicators; and
 - (c) be satisfied that the person will comply with any conditions of the authorisation.
- (5) In this clause, **health practitioner** has the same meaning as in section 5(1) of the Health Practitioners Competence Assurance Act 2003.
- (6) For the purposes of this clause, a person meets the **low risk indicators** if—
- (a) the person submits to a medical test for COVID-19 and the result of that test is negative; and
 - (b) any other medical tests or information relating to the person indicates that the person is at low risk of having or transmitting COVID-19.
- (7) Subclause (6)(a) does not apply in relation to a person who has particular physical or other needs that a medical officer of health or health protection officer determines would make it inappropriate for the person to undertake the medical test.

15 Persons and ships exempt from application of clause 12

- (1) Clause 12 does not apply if the person arrives in New Zealand on a ship—
 - (a) that has been at sea for at least 29 consecutive days; and
 - (b) on which no person has had contact with any other person other than those people who were on board the ship at the time of its most recent departure from New Zealand or another country; and
 - (c) that has arrived in accordance with sections 17 to 29 of the Customs and Excise Act 2018; and
 - (d) in respect of which a medical officer of health or a health protection officer is reasonably satisfied that no person on board has displayed symptoms of COVID-19.
- (2) If the person meets the requirements specified in subclause (1)(b), (c), and (d), but arrives in New Zealand from a point outside New Zealand on a ship that has been at sea for less than 29 consecutive days, clause 12 applies to the person for the number of days that would be needed to make 28 consecutive days.

Example

If a person described in subclause (2) arrives in New Zealand from a point outside New Zealand on a ship that has been at sea for 25 consecutive days beginning at 9 am on the first day, the person would be subject to clause 12 for 3 more days ending immediately before 9 am on the last day (25 + 3 = 28).

- (3) People on the following ships are exempt from clause 12:
 - (a) a New Zealand Government ship;
 - (b) a New Zealand warship;
 - (c) a foreign State ship.
- (4) In this clause, **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.

*Crew changes***16 Crew departing New Zealand by air or sea**

- (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 managed facility 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 the required period of isolation or quarantine in accordance with clause 12.
- (2) The crew member may, despite clause 20(2), travel from the ship or the managed facility to—
 - (a) the nearest security designated aerodrome to board an aircraft that is scheduled to leave New Zealand; or
 - (b) board a ship that is scheduled to leave New Zealand.
- (3) If the international flight that the crew member wishes to board does not depart on the same day that the crew member disembarks the ship, a medical officer of health or a health protection officer must transfer the crew member to a managed facility for the purpose of remaining in isolation or quarantine there in accordance with clause 20(2) or until the international flight departs, whichever happens first.
- (4) The crew member must travel from the ship or managed facility to the security designated aerodrome, departing ship, or managed facility—
 - (a) in accordance with the directions of a medical officer of health or a health protection officer; and
 - (b) as quickly and directly as is reasonably practicable; and
 - (c) using only dedicated private transport.
- (5) For the purposes of subclause (2), **leave New Zealand**, in relation to an aircraft or a ship scheduled to leave New Zealand, includes to travel to another place or places in New Zealand before departing from New Zealand.

17 Crew of departing ship who arrive in New Zealand by air

- (1) This clause applies to a crew member who has arrived in New Zealand at a security designated aerodrome—
 - (a) from a point outside New Zealand on board an aircraft; and
 - (b) for the purpose of boarding a ship that is scheduled to depart from New Zealand as soon as is reasonably practicable.
- (2) The crew member must travel from the security designated aerodrome to the ship referred to in subclause (1)(b).
- (3) The crew member must travel from the security designated aerodrome to the ship—
 - (a) in accordance with the directions of a medical officer of health or a health protection officer; and
 - (b) as quickly and directly as is reasonably practicable; and
 - (c) using only dedicated private transport.

18 Crew of non-departing ship who arrive in New Zealand by air

- (1) This clause applies to a crew member who has arrived in New Zealand at a security designated aerodrome—
 - (a) from a point outside New Zealand on board an aircraft; and
 - (b) for the purpose of boarding a ship that is not scheduled to depart from New Zealand as soon as is reasonably practicable.
- (2) The crew member must travel from the security designated aerodrome to a managed facility for the purpose of remaining in isolation or quarantine there in accordance with clause 20(2).
- (3) The crew member must travel from the security designated aerodrome to the managed facility—
 - (a) in accordance with the directions of a medical officer of health or a health protection officer; and
 - (b) as quickly and directly as is reasonably practicable; and
 - (c) using only dedicated private transport.

19 Clauses 17 and 18 prevail over definition of excluded arrival

If a conflict arises between paragraph (b) of the definition of excluded arrival in clause 4(1) of the COVID-19 Public Health Response (Air Border) Order 2020 and clauses 17 and 18 of this order, clauses 17 and 18 prevail.

*Isolation or quarantine in managed facility***20 Obligations relating to managed facilities***Requirement for entering*

- (1) Before entering a managed facility in accordance with this order, a person must report for, and submit themselves to, the medical examination and testing specified in clause 7(2) of the COVID-19 Public Health Response (Air Border) Order 2020.

Requirements for isolation or quarantine

- (2) Clauses 7(1)(b) to (d), (2), (3), and (4), 8, and 9 of the COVID-19 Public Health Response (Air Border) Order 2020 apply to a person who is in isolation or quarantine in a managed facility under this order.
- (3) Clause 16(2) overrides subclause (2).

*Requirements for boarding ships***21 Requirements for boarding ships for necessary tasks**

- (1) A person who boards a qualifying ship to undertake a necessary task 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; and
 - (b) wearing personal protective equipment.
- (2) For the purposes of this clause, **qualifying ship** means a ship that—
- (a) arrives in New Zealand from a point outside New Zealand on, after, or up to 14 days before, the commencement of this clause; and
 - (b) at the time of entering New Zealand, has—
 - (i) 1 or more persons on board who are in isolation or quarantine under clause 12; or
 - (ii) no one on board who has disembarked the ship while it is in New Zealand.

Part 4

Permitted shipping movements and revocations

22 Shipping movements exempt from application of Parts 2 and 3

- (1) Parts 2 and 3 do not apply to a ship carrying out any of the following permitted shipping movements, for the duration of the movement:
- (a) a ship arriving in New Zealand, if that 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 platform on the continental shelf;
 - (ii) support another ship operating offshore;
 - (b) a ship entering a New Zealand port, if that 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.
- (2) The movements specified in subclause (1)(a) are permitted shipping movements only if the people on the ship have not interacted with people from another ship or place other than those that the ship is supporting.
- (3) The movement specified in subclause (1)(b) is a permitted shipping movement only if the people on the ship—
- (a) have not interacted with people from another ship; and
 - (b) have not embarked or disembarked any crew member.
- (4) In this clause,—

continental shelf has the same meaning as in section 2(1) of the Continental Shelf Act 1964

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

23 Revocation

The order made on 31 March 2020 under section 70 of the Health Act 1956 is revoked.

Schedule 1

Transitional, savings, and related provisions

cl 5

Part 1

Provisions relating to this order as made

1 Application to persons isolated or quarantined under former order

- (1) This clause applies to a person if, immediately before 11.59 pm on 30 June 2020, that person—
 - (a) was in isolation or quarantine under the former order; or
 - (b) had arrived in New Zealand by sea and would have been required to be, but had not yet been, isolated or quarantined under the former order.
- (2) The requirements of this order apply in place of the former order.
- (3) To avoid doubt, the period for which the person is to remain in isolation or quarantine must be determined in accordance with clause 12 of this order.
- (4) In this clause, **former order** means the order made on 31 March 2020 under section 70 of the Health Act 1956.

Dated at Wellington this 26th day of June 2020.

Hon Dr David Clark,
Minister of Health.

Explanatory note

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

This order comes into force at 11.59 pm on 30 June 2020.

The purpose of this order is to prevent, and limit the risk of, an outbreak, or the spread, of COVID-19 by restricting which ships may arrive in New Zealand and put-

ting in place isolation or quarantine requirements for people who arrive in New Zealand by sea.

This order replaces the order made on 31 March 2020 under section 70 of the Health Act 1956 and will remain under active review.

This order is intended to provide greater certainty for safe maritime activities to take place that contribute to New Zealand's economy. It restricts the entry of foreign ships into New Zealand, with specific exemptions. The order regularises the movement of cargo and permits the entry of ships for refitting and repair by the boat building industry, or for New Zealand operating purposes.

This order also puts in place stronger isolation or quarantine requirements for people arriving by sea, with specific exemptions, in order to minimise the risk of transmission of COVID-19. People arriving by sea will be required to be isolated or quarantined on the ship for 14 days upon arrival or to transfer to a managed facility if isolation or quarantine on the ship is not possible or a person is unable or unwilling to remain in isolation or quarantine on the ship.

This order's isolation or quarantine requirements do not affect the immunities of foreign State ships. If the Ministry of Foreign Affairs and Trade grants diplomatic clearance for a foreign State ship to arrive in New Zealand, it will do so subject to conditions that reflect the requirements in this order for ships that are not foreign State ships.

This order also allows for maritime crew changes. It sets out requirements for maritime crew arriving by air and transferring directly to a ship. In addition, the order does not affect the obligations of persons arriving on ships to meet immigration requirements.

A person who does not comply with this order commits an offence under section 26 or 27 of the COVID-19 Public Health Response Act 2020. An enforcement officer under that Act will have the authority to exercise powers under sections 20 to 25 of that Act.

Reprints notes

1 *General*

This is a reprint of the COVID-19 Public Health Response (Maritime Border) Order 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) 2020 (LI 2020/240): clause 32