

# Briefing

## Exemption from the COVID-19 Public Health Response (Maritime Border) Order (No 2) 2020 for six trans-Tasman ships.

**Date due to MO:** 18 June 2021 **Action required by:** 25 June 2021

**Security level:** IN CONFIDENCE **Health Report number:** 20211265

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

**Copy to:** Hon Michael Wood, Minister of Transport

### Contact for telephone discussion

Name	Position	Telephone
<b>Dr Ashley Bloomfield</b>	Te Tumu Whakarae mō te Hauora Director-General of Health	s 9(2)(a)
<b>Maree Roberts</b>	Deputy Director-General, System Strategy and Policy	s 9(2)(a)

### Minister's office to complete:

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 Withdrawn |  |

Comment:

# Exemption from the COVID-19 Public Health Response (Maritime Border) Order (No 2) 2020 for six trans-Tasman ships.

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**Security level:** IN CONFIDENCE      **Date:** 18 June 2021

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

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## Purpose of report

1. This briefing recommends that you grant exemptions for the crew of six ships travelling between New Zealand and Australia from clauses 17 and 19, of the COVID-19 Public Health Response (Maritime Border) Order (No 2) 2020.

## Summary

2. The Maritime Border Order prescribes the isolation and quarantine requirements for all ships arriving in New Zealand. All arrivals must satisfy a medical officer of health or health protection officer that they, and every other person on the ship, has completed at least 14-days isolation, been symptom free for 14 days and produced a negative COVID-19 test prior to disembarking into New Zealand. The required isolation period may be completed while in transit, on board the ship or in a managed isolation or quarantine facility (MIQF) upon arrival.
3. Despite trans-Tasman quarantine-free travel (TT-QFT) in place for arrivals by air, the quarantine-free travel (QFT) framework does not extend to the maritime border. Furthermore, the Maritime Border Order does not contain a legal mechanism to negate the requirement of crew on ships arriving from Australia to isolate on their return to New Zealand.
4. Officials are undertaking policy work on maritime border settings to align the existing controls with the air border. We intend to resolve this issue amongst a suite of amendments being developed in relation to bringing quarantine free travel to the maritime border, but we require an interim solution until that work has been completed.
5. To address the issue for maritime vessels affected by this, we recommend you provide six exemptions to the isolation and quarantine requirements in the Maritime Border Order for the crew members of the *MV Southern Tiare*, *Amatal Explorer*, *Amatal Columbia*, *Moana Explorer*, *Tokatu* and *Rehua* ships.
6. Officials have assessed these exemption requests from a public health perspective and conclude that granting the exemptions poses a low public health risk to New Zealand. This recognises that TT-QFT is already operating and as such this exemption introduces no additional public health risk. If TT-QFT is paused or suspended, officials will review these exemptions based on the changing public health risk and consider an appropriate response as required.

## Recommendations

We recommend you:		
a)	<b>Note</b> that under section 31a of the COVID-19 Public Health Response (Maritime Border) Order (No 2) 2020 (the Maritime Order) you may exempt any person or class of persons from the requirement to comply with any provision of the Order.	<b>Noted</b>
b)	<b>Note</b> under the Maritime Border Order, you must take into account the advice of the Director-General of Health when deciding whether to grant an exemption and what, if any, conditions to impose on an exemption.	<b>Noted</b>
c)	<b>Note</b> that all sea crew are required to undertake a 14-day quarantine and isolation period unless exempted from the requirements of the Maritime Border Order.	<b>Noted</b>
d)	<b>Note</b> that there are currently no legal mechanisms within the Maritime Order to negate the requirements for crew arriving from Australia to isolate on their return to New Zealand.	<b>Noted</b>
e)	<b>Note</b> we intend to resolve this issue amongst a suite of amendments being developed in relation to bringing quarantine free travel to the maritime border, but we require an interim solution until that work has been completed.	<b>Noted</b>
f)	<b>Note</b> we have assessed these exemptions as low risk in context of the current pause of TT-QFT with Melbourne and will continue to review any residual risk.	<b>Noted</b>
g)	<b>Agree</b> to grant a one-off exemption for the crews of the <i>MV Southern Tiare</i> , <i>Amatal Explorer</i> , <i>Amatal Columbia</i> , <i>Moana Explorer</i> , <i>Tokatu</i> and <i>Rehua</i> ships from clauses 17 and 19 of the Maritime Order by the 25 June 2021.	<b>Yes/No</b>
h)	<b>Note</b> that if trans-Tasman quarantine-free travel by air is paused or suspended, officials will review these exemptions based on the changing public health risk and consider an appropriate response as required.	<b>Noted</b>
i)	<b>Note</b> that the six exemptions will be published in the <i>New Zealand Gazette</i> and on the Unite Against COVID-19 website.	<b>Noted</b>



Dr Ashley Bloomfield

**Te Tumu Whakarae mō te Hauora**  
**Director-General of Health**

Date: 18/06/2021



Hon Chris Hipkins

**Minister for COVID-19 Response**

Date: 21/06/2021

# Exemption from the COVID-19 Public Health Response (Maritime Border) Order (No 2) for six trans-Tasman ships

## Background and context

7. The COVID-19 Public Health Response (Maritime Border) Order (No 2) (the Maritime Order) prescribes the isolation and quarantine requirements for all ships arriving in New Zealand. These provisions have not changed since trans-Tasman quarantine-free travel by air (TT-QFT) commenced at 11:59pm on 18 April 2021.
8. TT-QFT is currently operating at the air border. It has not yet been extended to the maritime border due to the additional complexities of operating QFT at seaports. Advice is under development about how QFT can be rolled out at the maritime border, but this is expected to take some time.
9. In the interim, there are six ships intending to depart Australia with crew who would meet the QFT prerequisites but for the fact that they are arriving by sea. These ships have sought to be exempted from the isolation and quarantine requirements of the Maritime Border Order.

**Table One: Ships requesting exemption from clauses 17 and 19, of the Public Health Response (Maritime) Order (No 2) 2020 (Maritime Border Order).**

Name of Ship	Departure (Approx <sup>1</sup> )	Arrival (Approx <sup>1</sup> )	Australian Departure Port/s	New Zealand Arrival Port
MV Southern Tiare	1 July 21	5 July 21	Norfolk Island	Napier
Amatal Explorer	20 July 21	25 July 21	Hobart (TAS/ Melbourne (VIC)	Nelson
Amatal Columbia	18 Aug 21	22 Aug 21	Hobart (TAS)/ Melbourne (VIC)	Nelson
Moana Explorer	30 June 21	12 July 21	Bundaberg, (QLD)	Whangarei
Tokatu	27 Aug 21	1 Sep 21	Burnie (TAS)	Dunedin
Rehua	28 July 21	2 Aug 21	Burnie (TAS)	Nelson

<sup>1</sup> Due to the nature of sea travel (weather conditions, port processes and fishing conditions) the departure and arrival time is an approximate guide only but should remain within a few days either side of the stated date.

## All crew members arriving in New Zealand from Australia via sea are legally subject to the requirements of the Maritime Border Order

10. TT-QFT by air is intended to provide a level of freedom for travellers that resembles pre-COVID-19 settings. However, the TT-QFT framework has not yet been extended to the maritime border. This results in all maritime arrivals, including those who would meet eligibility requirements to travel on a QFT flight if they were arriving by air, continuing to be subject to the isolation and quarantine requirements prescribed in the Maritime Border Order.
11. Currently, under the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 (Air Border Order) passengers on QFT flights from Australia have full freedom of movement around New Zealand. Without the proposed exemption this disparity between the Maritime Border Order and the Air Border Order could result in inequitable outcomes for those seeking to travel to New Zealand via sea in comparison to air. This will be resolved when consequential QFT amendments to the Maritime Border Order are made.

## Granting an exemption provides a short-term fix until we amend the Maritime Border Order

12. Officials are undertaking further policy work on the maritime border settings to align with QFT settings in the Air Border Order. However, there are several factors to consider, including:
  - a) it is harder to get standard processes and systems in place to mitigate risk at seaports than at airports because of the multiple points of entry across the maritime border and not all points are easily monitored or controlled
  - b) it is harder to control intermingling between QFT ship crews and crews from non-QFT places because of the multiple points of entry across the maritime border and not all points are easily monitored or controlled
  - c) it is harder to draft the provisions relating to ships arriving from QFT places because we want to prevent inadvertently re-opening the border to cruise ships that have originated from international ports
  - d) it is harder to make changes to the Maritime Border Order because of the extensive number of stakeholders (shipping companies, private ships and external agencies) that need to be consulted.
13. Because of the above factors, it was not feasible to include the Maritime Border Order amendment in the COVID-19 Public Health Response (Air Border, Isolation and Quarantine, and Required Testing) Amendment Order 2021 which came into effect at 11:59pm on 18 April 2021.
14. Until we amend the Maritime Order, one-off exemptions on a case by case basis are required for ships that pose a low public health risk while travelling within the bounds of the existing TT-QFT framework for air. There are likely to be a small number of circumstances that require these exemptions before we can amend the Maritime Order.
15. For convenience of not duplicating multiple exemption requests we have included the details of the six trans-Tasman ships listed (refer to *Table One*) into the single Health Report.

16. If these exemptions are not made, all crew members of the six trans-Tasman ships will be required to undertake an isolation period of 14-days prior to disembarking into the New Zealand community.

### **The public health risk of these exemptions is low**

17. Officials have undertaken a public health risk assessment of each of the ships listed in *Table One*. Based on this assessment, officials have concluded that the risk of granting the exemptions sought is low. Officials have ensured that the exemption conditions are flexible, should the TT-QFT agreement change (e.g. a pause or suspension).
18. As at 15 June 2021, the last incident of a COVID-19 community outbreak in Australia was in Victoria which resulted in New Zealand placed paused QFT flights from Victoria from 25 May 2021.
19. The outbreak in Victoria is being managed and the number of community transmissions have decreased significantly. The pause on TT-QFT with Victoria is due to be reviewed on 22 June 2021.
20. Public Health Officials continue to view Australia as a low risk country and as such have not changed their assessment of these six exemptions.

### **We recommend you exempt crew members from clause 17 and 19 of the Maritime Border Order**

21. To temporarily address the lack of QFT provisions in the Maritime Border Order, we recommend you exempt the crew members of the MV Southern Tiare, Amatal Explorer, Amatal Columbia, Moana Explorer, Tokatu and Rehua from clauses 17 and 19 of the Maritime Order.
22. This exemption is needed in the interim to allow the crew members of these ships to have the same freedoms in New Zealand as normal TT-QFT travellers. One-off exemptions from the Maritime Border Order will not be required once amended.
23. Under clause 31A of the Maritime Border Order, you may exempt any person or class of persons from the requirement to comply with any provision if you are satisfied that:
  - a) the exemption is necessary and desirable in order to promote the purposes of the COVID-19 Public Health Response Act 2020 (the Act) or the Maritime Border Order; and
  - b) the extent of the exemption is not broader than is reasonably necessary to address the matters giving rise to the exemption.
24. When deciding whether to grant an exemption and what (if any) conditions to impose, you must take into account my advice on the public health implications. All six exemptions are to be subject to the following conditions:
  - a) All crew have not travelled outside of the designated QFT routes between Australia and New Zealand in the past 14 days; and
  - b) All crew have not been to any locations of interest in relation to any current community outbreaks of COVID-19 in the past 14 days; and

- c) All crew have not been identified as a close or casual contact of any cases of COVID-19 in the last 14 days; and
  - d) All crew are not experiencing symptoms of COVID-19 at time of departure; and
  - e) There is no contact with crew of foreign ships in the 14 days at any time prior or during transit to New Zealand; and
  - f) There is no pause or suspension of QFT in operation at the port of origin at the time of departure; and
  - g) There is no pause or suspension of QFT in operation at any ports visited at any point of the ships journey; and
  - h) There is no pause or suspension of QFT in operation at any place visited by any crew member that is still in place when that crew member onboard the ship
25. There are six separate exemptions, specific to each ship attached to this briefing for your signing should you agree.
26. Section 4 of the Act states the purpose as supporting a public health response to COVID-19 that:
- a) prevents, and limits the risk of, the outbreak or spread of COVID-19 (taking into account the infectious nature and potential for asymptomatic transmission of COVID-19);
  - b) avoids, mitigates, or remedies the actual or potential adverse effects of the COVID-19 outbreak (whether direct or indirect);
  - c) allows social, economic and other factors to be taken into account where it is relevant to do so;
  - d) is economically sustainable and allows for recovery of Managed Isolation and Quarantine Facilities (MIQF) costs;
  - e) has enforceable measures, in addition to the relevant voluntary measures and public health and other guidance that also supports that response.

### **Alignment with the purpose of the Act to prevent the spread of COVID-19**

27. The risk of spreading COVID-19 to the community is evaluated taking into account whether:
- a) the group seeking an exemption is at a lower risk of having been exposed to COVID-19;
  - b) there are appropriate measures in place to reduce the risk of the spread of COVID-19 to the New Zealand community;
  - c) any conditions or mitigation measures are likely to be complied with and the associated risk if conditions are not complied with.
28. I consider these exemptions are low risk of spreading COVID-19 to the New Zealand community.

## Other factors to be taken into consideration

29. The exemption discretion must be exercised consistently with the New Zealand Bill of Rights Act 1990 (NZBORA).

30. s 9(2)(h) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

## Next steps

31. If you agree to these exemptions and sign the six notices by 25 June 2021, the Ministry will arrange for the notice to be sent to the *New Zealand Gazette* and published. The exemption will be enforce on the 28 June 2021.

ENDS.

PROACTIVELY RELEASED



**Exemption of Persons from clauses 17 and 19 of the COVID-19 Public Health Response (Maritime Border) Order (No 2) 2020**

Pursuant to clause 31A of the COVID-19 Public Health Response (Maritime Border) Order (No 2) 2020 ("the Order"), I, Hon Chris Hipkins, Minister for COVID-19 Response, having taken into account the advice of the Director-General of Health, hereby make an exemption for the crew members of the Amatal Columbia scheduled to arrive in New Zealand on or around the 22 August 2021 from clause 17 and 19 of the Order.

*This exemption is subject to the following conditions:*

- a) All crew have not travelled outside of the designated QFT routes between Australia and New Zealand in the past 14 days; and*
- b) All crew have not been to any locations of interest in relation to any current community outbreaks of COVID-19 in the past 14 days; and*
- c) All crew have not been identified as a close or casual contact of any cases of COVID-19 in the last 14 days; and*
- d) All crew are not experiencing symptoms of COVID-19 at time of departure; and*
- e) There is no contact with crew of foreign ships in the 14 days at any time prior or during transit to New Zealand; and*
- f) There is no pause or suspension of QFT in operation at the port of origin at the time of departure; and*
- g) There is no pause or suspension of QFT in operation at any ports visited at any point of the ships journey; and*
- h) There is no pause or suspension of QFT in operation at any place visited by any crew member that is still in place when that crew member onboard the ship*

Dated at Wellington this 21st day of June 2021

Hon Chris Hipkins



Minister for COVID-19 Response

**Exemption of Persons from clauses 17 and 19 of the COVID-19 Public Health Response (Maritime Border) Order (No 2) 2020**

Pursuant to clause 31A of the COVID-19 Public Health Response (Maritime Border) Order (No 2) 2020 ("the Order"), I, Hon Chris Hipkins, Minister for COVID-19 Response, having taken into account the advice of the Director-General of Health, hereby make an exemption for the crew members of the Amatal Explorer scheduled to arrive in New Zealand on or around the 25 July 2021 from clause 17 and 19 of the Order.

*This exemption is subject to the following conditions:*

- a) All crew have not travelled outside of the designated QFT routes between Australia and New Zealand in the past 14 days; and*
- b) All crew have not been to any locations of interest in relation to any current community outbreaks of COVID-19 in the past 14 days; and*
- c) All crew have not been identified as a close or casual contact of any cases of COVID-19 in the last 14 days; and*
- d) All crew are not experiencing symptoms of COVID-19 at time of departure; and*
- e) There is no contact with crew of foreign ships in the 14 days at any time prior or during transit to New Zealand; and*
- f) There is no pause or suspension of QFT in operation at the port of origin at the time of departure; and*
- g) There is no pause or suspension of QFT in operation at any ports visited at any point of the ships journey; and*
- h) There is no pause or suspension of QFT in operation at any place visited by any crew member that is still in place when that crew member onboard the ship*

Dated at Wellington this 21st day of June 2021

Hon Chris Hipkins



Minister for COVID-19 Response

**Exemption of Persons from clauses 17 and 19 of the COVID-19 Public Health Response (Maritime Border) Order (No 2) 2020**

Pursuant to clause 31A of the COVID-19 Public Health Response (Maritime Border) Order (No 2) 2020 ("the Order"), I, Hon Chris Hipkins, Minister for COVID-19 Response, having taken into account the advice of the Director-General of Health, hereby make an exemption for the crew members of the Moana Explorer scheduled to arrive in New Zealand on or around the 1 September 2021 from clause 17 and 19 of the Order.

*This exemption is subject to the following conditions:*

- a) All crew have not travelled outside of the designated QFT routes between Australia and New Zealand in the past 14 days; and*
- b) All crew have not been to any locations of interest in relation to any current community outbreaks of COVID-19 in the past 14 days; and*
- c) All crew have not been identified as a close or casual contact of any cases of COVID-19 in the last 14 days; and*
- d) All crew are not experiencing symptoms of COVID-19 at time of departure; and*
- e) There is no contact with crew of foreign ships in the 14 days at any time prior or during transit to New Zealand; and*
- f) There is no pause or suspension of QFT in operation at the port of origin at the time of departure; and*
- g) There is no pause or suspension of QFT in operation at any ports visited at any point of the ships journey; and*
- h) There is no pause or suspension of QFT in operation at any place visited by any crew member that is still in place when that crew member onboard the ship*

Dated at Wellington this 21st day of June 2021

Hon Chris Hipkins



Minister for COVID-19 Response

**Exemption of Persons from clauses 17 and 19 of the COVID-19 Public Health Response (Maritime Border) Order (No 2) 2020**

Pursuant to clause 31A of the COVID-19 Public Health Response (Maritime Border) Order (No 2) 2020 ("the Order"), I, Hon Chris Hipkins, Minister for COVID-19 Response, having taken into account the advice of the Director-General of Health, hereby make an exemption for the crew members of the MV Southern Tiare scheduled to arrive in New Zealand on or around the 5 July 2021 from clause 17 and 19 of the Order.

*This exemption is subject to the following conditions:*

- a) All crew have not travelled outside of the designated QFT routes between Australia and New Zealand in the past 14 days; and*
- b) All crew have not been to any locations of interest in relation to any current community outbreaks of COVID-19 in the past 14 days; and*
- c) All crew have not been identified as a close or casual contact of any cases of COVID-19 in the last 14 days; and*
- d) All crew are not experiencing symptoms of COVID-19 at time of departure; and*
- e) There is no contact with crew of foreign ships in the 14 days at any time prior or during transit to New Zealand; and*
- f) There is no pause or suspension of QFT in operation at the port of origin at the time of departure; and*
- g) There is no pause or suspension of QFT in operation at any ports visited at any point of the ships journey; and*
- h) There is no pause or suspension of QFT in operation at any place visited by any crew member that is still in place when that crew member onboard the ship*

Dated at Wellington this 21st day of June 2021

Hon Chris Hipkins



Minister for COVID-19 Response

**Exemption of Persons from clauses 17 and 19 of the COVID-19 Public Health Response (Maritime Border) Order (No 2) 2020**

Pursuant to clause 31A of the COVID-19 Public Health Response (Maritime Border) Order (No 2) 2020 (“the Order”), I, Hon Chris Hipkins, Minister for COVID-19 Response, having taken into account the advice of the Director-General of Health, hereby make an exemption for the crew members of the Rehua scheduled to arrive in New Zealand on or around the 2 August 2021 from clause 17 and 19 of the Order.

*This exemption is subject to the following conditions:*

- a) All crew have not travelled outside of the designated QFT routes between Australia and New Zealand in the past 14 days; and*
- b) All crew have not been to any locations of interest in relation to any current community outbreaks of COVID-19 in the past 14 days; and*
- c) All crew have not been identified as a close or casual contact of any cases of COVID-19 in the last 14 days; and*
- d) All crew are not experiencing symptoms of COVID-19 at time of departure; and*
- e) There is no contact with crew of foreign ships in the 14 days at any time prior or during transit to New Zealand; and*
- f) There is no pause or suspension of QFT in operation at the port of origin at the time of departure; and*
- g) There is no pause or suspension of QFT in operation at any ports visited at any point of the ships journey; and*
- h) There is no pause or suspension of QFT in operation at any place visited by any crew member that is still in place when that crew member onboard the ship*

Dated at Wellington this 21st day of June 2021

Hon Chris Hipkins



Minister for COVID-19 Response

**Exemption of Persons from clauses 17 and 19 of the COVID-19 Public Health Response (Maritime Border) Order (No 2) 2020**

Pursuant to clause 31A of the COVID-19 Public Health Response (Maritime Border) Order (No 2) 2020 ("the Order"), I, Hon Chris Hipkins, Minister for COVID-19 Response, having taken into account the advice of the Director-General of Health, hereby make an exemption for the crew members of the Tokatu scheduled to arrive in New Zealand on or around the 2 August 2021 from clause 17 and 19 of the Order.

*This exemption is subject to the following conditions:*

- a) All crew have not travelled outside of the designated QFT routes between Australia and New Zealand in the past 14 days; and*
- b) All crew have not been to any locations of interest in relation to any current community outbreaks of COVID-19 in the past 14 days; and*
- c) All crew have not been identified as a close or casual contact of any cases of COVID-19 in the last 14 days; and*
- d) All crew are not experiencing symptoms of COVID-19 at time of departure; and*
- e) There is no contact with crew of foreign ships in the 14 days at any time prior or during transit to New Zealand; and*
- f) There is no pause or suspension of QFT in operation at the port of origin at the time of departure; and*
- g) There is no pause or suspension of QFT in operation at any ports visited at any point of the ships journey; and*
- h) There is no pause or suspension of QFT in operation at any place visited by any crew member that is still in place when that crew member onboard the ship*

Dated at Wellington this 21st day of June 2021

Hon Chris Hipkins



Minister for COVID-19 Response