

Briefing

Exemption: ship movements within New Zealand

Date due to MO: 27 September 2021 **Action required by:** 29 September 2021

Security level: In confidence **Health Report number:** 20212107

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

Copy to: Hon Meka Whaitiri, Minister of Customs
Hon Michael Wood, Minister for Transport

Contact for telephone discussion

Name	Position	Telephone
Dr Ashley Bloomfield	Te Tumu Whakarae mō te Hauora Director-General of Health	s 9(2)(a)
Maree Roberts	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 Withdrawn | |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: ship movements within New Zealand

Security level: In confidence

Date: 24 September 2021

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

Purpose of report

1. This report seeks your agreement to grant a class exemption from the condition in clause 17(4A)(c) of the COVID-19 Public Health Response (Maritime Border) Order (No 2) 2020 to allow for safe shipping movements, and to avoid triggering isolation and quarantine requirements when ships travel from one port or place in New Zealand to another and in doing so leave the 12 nautical mile boundary of New Zealand.

Summary

2. Ships, whether from overseas or local, regularly travel on coastal voyages between ports or places in New Zealand.
3. For ships to voyage safely between ports or places within New Zealand, they will sometimes have to leave New Zealand's 12 nautical mile boundary.
4. The COVID-19 Public Health Response (Maritime Border) Order (No 2) 2020 (the Order) treats those ships which have crossed 12 nautical miles as having left and re-entered New Zealand thereby triggering the isolation and quarantine requirements under clause 17(1) of the Order.
5. The Order addresses this issue and clause 17(4A)(c) was inserted as an amendment to prevent the reset of isolation and quarantine requirements when re-entering from outside the 12 nautical mile boundary. However, it only applies to ships that have travelled from a port that is at Alert Level 1.
6. This creates the unintended consequence of requiring all ships that have travelled from a port or place that is not Alert Level 1 (all New Zealand currently) to go into isolation or quarantine if they go outside the 12 nautical mile boundary.
7. The Ministry now considers that there are sufficient public health measures in place to mitigate risk such that the Alert Level at the port of departure is less of a concern.
8. I recommend that you grant, under your powers in clause 31A of the Order, a class exemption from the requirement within clause 17(4A)(c) of the Order that the port or place of the ship's last departure must be at Alert Level 1, as an interim solution until the Order is amended.

9. We are currently undertaking a quarterly review and update of the Order, which will include an amendment to clause 17(4A)(c) that will permanently resolve this issue. This paper is due with you within the next two weeks.

Recommendations

We recommend you:

- a) **Note** that ships regularly leave the 12 nautical mile boundary of New Zealand to voyage safely between ports and places within New Zealand. **Noted**
- b) **Note** the Order creates the unintended consequence of requiring all ships that have travelled from a port or place that is not at Alert Level 1 to go into 14 days isolation or quarantine if they exit and re-enter the 12 nautical mile boundary. **Noted**
- c) **Agree** to grant a class exemption under clause 31A of the Order from the requirement within clause 17(4A)(c) that the port or place of the ship's last departure must be at Alert Level 1, as an interim solution until the Order is amended. **Yes/No**
- d) **Sign** the attached exemption notice. **Yes/No**
- e) **Note** that the exemption notice will be published in the Gazette and online. **Noted**
- f) **Note** that a quarterly review of the Order is underway, which will include an amendment to clause 17(4A)(c) that will permanently resolve this issue. This paper is due with you within the next two weeks. **Noted**



Dr Ashley Bloomfield
Director-General of Health
Date: 27/09/21



Hon Chris Hipkins
Minister for COVID-19 Response
Date: 2/10/2021

Exemption: ship movements within New Zealand

Background

1. The purpose of the COVID-19 Public Health Response (Maritime Border) Order (No 2) 2020 (the Order) is to prevent and limit the risk of an outbreak or the spread of COVID-19 through the maritime border. A key requirement of the Order is that all persons who arrive in New Zealand on board a ship must undergo at least 14 days isolation or quarantine on that ship (unless they are moved to a managed isolation or quarantine facility).
2. Ships, whether from overseas or local, regularly travel on coastal voyages between ports or places in New Zealand and, in doing so, may leave the 12 nautical mile boundary of New Zealand¹ to voyage safely between ports. The Order treats those ships which have crossed 12 nautical miles as having left and re-entered New Zealand thereby triggering the isolation and quarantine requirements under clause 17(1) of the Order.
3. Clause 17(4A) of the Order foresees this situation and does not require any further isolation or quarantine period if the ship travels only within New Zealand's exclusive economic zone. However, Clause 17(4A)(c) states that port or place of the ship's last departure must be at Alert Level 1.
4. Therefore, if a ship departs a New Zealand port that is not at Alert Level 1, and travels to another New Zealand port and goes outside 12 nautical miles, the ships' crew will be required to restart the isolation and quarantine period set out in the Order at clause 17(1) and meet the low-risk indicators before disembarking.

Restrictive and unintended consequences have arisen

5. Government and industry stakeholders have noted this requirement is too restrictive and results in impractical impediments for coastal shipping movement around New Zealand, including by international vessels. From an operational perspective, this may incentivise ships to remain closer to the New Zealand coast than is safe (i.e., to remain within 12 nautical miles of the shore).
6. It will also mean the crew of most New Zealand-based coastal freighters that go outside the 12 nautical mile boundary will not be able to disembark their ships without either spending 14 days at sea between ports or entering a managed isolation or quarantine facility (MIQF), as they have technically left New Zealand. The current drafting of the Order excludes everywhere in New Zealand that is not at Alert Level 1. This has emerged as an issue now that the rest of New Zealand outside of Auckland is at Alert Level 2 for ships that want to move from one port to another.
7. This does not affect the testing requirements for crew travelling between New Zealand ports and crossing Alert Level boundaries. Testing is required of crew if they join crew from an Alert level 3 or 4 area or have been ashore in an Alert level 3 or 4 area. They will have to have evidence they were tested within 7 days of departure.

¹ 12 nautical miles is the boundary of New Zealand as defined in the COVID-19 Public Health Response Act 2020.

Power for Minister to grant exemptions from the Order

8. As Minister for COVID-19 Response you have a power to grant exemptions from the Order under clause 31A to any person or class of persons from the requirement to comply with any provision of the Order. In doing so, you must be 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.
9. You may impose conditions on the exemption as you consider necessary, and you 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.

Advice of the Director-General of Health

10. I am satisfied that there is no additional COVID-19 public health risk associated with ships re-entering the 12 nautical mile boundary, where travel occurs directly from one New Zealand region to another, and there is no contact with other ship's crew. In addition, this generally aligns with current controls on ships' crew in the Order.
11. Ships' crew arriving into New Zealand will still be subject to at least 14 days isolation or quarantine. No-one can disembark (whether for shore leave or permanently) unless a Medical Officer of Health or a Health Protection Officer verifies that all the persons who arrived in New Zealand on board that ship meet the COVID-19 low-risk indicators. If crew are not disembarking their vessel it is possible for their ship to voyage between ports in New Zealand and for the time to count towards their isolation. This presents no additional public health risks.

Equity

12. Ensuring that COVID-19 response settings are appropriately set to manage public health risks but also not overly burdensome as to direct resources to where there is negligible benefit is critical. In this instance, there is limited public health benefit from requiring ships that leave the 12 nautical mile boundary to enter isolation or quarantine if they leave from and return to a New Zealand port or place. Resources and effort would be better focused where there is greater need in the COVID-19 response.

Next steps

13. If you agree to this exemption and sign the notice, the Ministry will arrange for the notice to be Gazetted and published. Officials are currently undertaking a quarterly review and update of the Order, which will include an amendment to clause 17(4A)(c) that will permanently resolve this issue. This paper is due with you within the next two weeks.

ENDS.