

# Briefing

## COVID-19: Maritime Border Order omnibus amendments for consultation

<b>Date due to MO:</b>	15/11/2021	<b>Action required by:</b>	19/11/2021
<b>Security level:</b>	IN CONFIDENCE	<b>Health Report number:</b>	20212411
<b>To:</b>	Hon Chris Hipkins, Minister for COVID-19 Response		
<b>Copy to:</b>	Hon Meka Whaitiri, Minister of Customs Hon Michael Wood, Minister of Transport		

### Contact for telephone discussion

Name	Position	Telephone
<b>Dr Ashley Bloomfield</b>	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 Withdrawn |  |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:

# COVID-19: Maritime Border Order, third quarter omnibus amendments for consultation

---

**Security level:** IN CONFIDENCE                      **Date:** 15/11/21

---

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

---

## Purpose of report

1. This report recommends that you consult with the Prime Minister, the Minister of Justice and the Minister of Health on the attached draft COVID-19 Public Health Response (Maritime Border) Amendment Order 2020 (the Amendment Order)

## Summary

2. On 12 October 2021 you agreed to adopt a number of amendments to the COVID-19 Public Health Response (Maritime Border) No.2 2020 (the order) to build on and improve the settings required to manage the public health risk of COVID-19 at the maritime border [HR20211654 refers].
3. The proposed amendments have considered measures to further enhance COVID-19 protection measures whilst also supporting our maritime industry to operate with minimal disruption.
4. The attached draft Amendment Order would give effect to those changes including:
  - a. a new power for Medical Officers of Health to require additional testing, self-isolation, or transferal to a managed isolation or quarantine facility (MIQF) of a New Zealand-based worker conducting a necessary task on a ship in isolation or quarantine
  - b. amending the trigger point for requiring a ship to enter isolation or quarantine when a new crew member joins a ship who is subject to isolation or quarantine under New Zealand law
  - c. amending the application of the order to allow vessels to go beyond the 12 nautical mile boundary without triggering re-entry requirements
  - d. clarifying the time that must be spent in isolation where crew (or part of a crew) are transferred to managed isolation.
  - e. other minor and technical amendments.

## Recommendations

We recommend you:

- a) **Note** the attached draft COVID-19 Public Health Response (Maritime Border Order) Amendment order 2020 gives effect to the policy previously agreed in HR 20211654. **Noted**
- b) **Note** that advice from the Director-General of Health is that the COVID-19 Public Health Response (Maritime Border Order) Amendment Order 2021 is in line with the purposes of the COVID-19 Public Health Response Act 2020, to prevent, and limit the risk of, the outbreak or spread of COVID-19 by refining the existing border restrictions to further mitigate risk. **Noted**
- c) **Agree** to consult with the Prime Minister and Minister of Justice on the attached draft COVID-19 Public Health Response (Maritime Border) Amendment Order 2021 **Yes/No**



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

Hon Chris Hipkins  
**Minister for COVID-19 Response**

# COVID-19: Maritime Border Order, third quarter omnibus amendments for consultation

## Background

5. The Maritime Border Order is an integral part of the legal framework that supports our COVID-19 Elimination Strategy. The purpose of the 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
  - b. continuing isolation and quarantine requirements for people who arrive in New Zealand by sea
  - c. facilitating the safe transfer of crew and cargo at ports.
6. In light of the increased risk posed by the delta variant of COVID-19 and its presence within the international maritime context, officials have identified a range of amendments to introduce new requirements, clarify existing requirements and further mitigate the public health risk associated with maritime movements.

## Contents of Draft Amendment Order

### Medical Officers of Health may require additional testing and/or isolation or quarantine of New Zealand-based workers

7. This amendment provides Medical Officers of Health (MOoH) a discretionary power to require additional testing, self-isolation and/or transfer to a MIQF of New Zealand-based workers undertaking a necessary task on a ship in isolation or quarantine should the nature of the task result in an increased risk of COVID-19 exposure.
8. This discretionary power helps to mitigate the public health risk associated with New Zealand-based workers boarding ships in isolation or quarantine, as should the New Zealand-based worker spend an extended period with or be in close contact with crew that have an unknown COVID-19 status, the MOoH has the necessary legal mandate to require additional public health control measures to prevent the at risk worker entering into the community.

### Requirement to remain in isolation or quarantine when a new person boards a ship

9. This amendment changes the trigger point for requiring a ship to enter isolation or quarantine to include when an additional person subject to isolation or quarantine under New Zealand law boards the ship.
10. There is a public health risk associated with new crew who have not completed the mandatory 14-day isolation period joining a ship no longer in isolation or quarantine. Amending the trigger point for requiring isolation and quarantine to include all persons who are subject to isolation or quarantine under New Zealand law will provide the necessary legal framework to require a ship's crew to re-enter isolation and quarantine

should a new crew member that is subject to isolation and quarantine requirements join the ship after the ship's crew has completed isolation or quarantine.

### **Amending the 12 nautical mile boundary limit for re-entering isolation and quarantine to remove impractical barriers for coastal shipping movements**

11. At present, if a ship departs a New Zealand port that is not at Alert Level 1, and travels to another New Zealand port (regardless of Alert Level) by going outside 12 nautical miles (considered the boundary of New Zealand under the Covid Response Act) the crew on board the ship will be required to restart their isolation and quarantine period and meet the low-risk indicators before disembarking.
12. Government and industry stakeholders have concerns that this is too restrictive and results in impractical impediment for coastal shipping movement around New Zealand.
13. 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 port at Alert Level 1 or 2 to another at those Alert Levels, and there is no contact with other ships' crews. Public health risks associated with travel between ports at higher levels and lower levels is managed through the Alert Level Order requirements.

### **Extending the boundary for ships that have received an exemption from the Order**

14. Under clause 11 of the Order, the Director-General of Health may grant an exemption for a ship to enter and operate in New Zealand waters within a 12 nautical mile boundary of the shore. This Amendment extends this boundary to permit exempt ships to operate within New Zealand's Exclusive Economic Zone, without triggering isolation or quarantine upon re-entering New Zealand.

### **Isolation and Quarantine of personnel transferred from a ship to a managed isolation or quarantine facility**

15. This amendment improves the clarity around the start time for isolation and quarantine for personnel transferred off a ship into a managed isolation or quarantine facility (MIQF). When an entire crew is transferred to an MIQF, the 14-day managed isolation period will now not reset as the COVID-19 status of the crew is visible from testing conducted during their stay. When part of a crew is transferred, the start time of the isolation period will be reset to when they enter MIQF as there is no visibility of the COVID-19 status of crew who remain onboard.
16. The amendment also provides a discretionary power for Medical Officer's of Health to reduce the length of isolation and quarantine where appropriate to ensure that public health risk is managed in a proportionate way and MIQF resources are used appropriately.

### **Minor and technical amendments**

17. In addition to the amendments outlined above, the amendment order includes a number of minor and technical amendments that clarifies existing provisions in the order and do not involve substantive changes to the policy or intent of the Order.

## Process for amending a section 11 Order

18. Under the COVID-19 Public Health Response Act 2020 (the COVID-19 Act), an Order may be made if either:
  - a. a state of emergency has been declared (under the Civil Defence Emergency Management Act 2002);
  - b. an Epidemic Notice is in force (under the Epidemic Preparedness Act 2006); or
  - c. it has been authorised by the Prime Minister.
19. There is currently an Epidemic Notice in place, which allows Orders to be made under section 11 of the COVID-19 Act.
20. As the Minister for COVID-19 Response, you may make Orders under section 11 of the COVID-19 Public Health Response Act 2020 (the Act).
21. To make an Order under section 11 of the Act you must:
  - a. have received advice from the Director-General about –
    - i. the risks of the outbreak or spread of COVID-19;
    - ii. the nature and extent of measures that are appropriate to address those risks; and
  - b. be satisfied that the proposed Order does not limit or is a justified limit on the rights and freedoms in the New Zealand Bill of Rights Act 1990 (NZBORA); and
  - c. consult with the Prime Minister, the Minister of Justice and any other Ministers you think necessary; and
  - d. be satisfied that this Order is appropriate to achieve the purposes of the Act.
22. My advice about the risks of the outbreak or spread of COVID-19 and the nature and extent of measures that are appropriate to manage those risks is set out below.

## Public health rationale for amendments

23. You are receiving ongoing advice about the risks associated with COVID-19. In accordance with section 9(2) of the Act, you may have regard to that advice without it being repeated here.
24. You have previously been provided with detailed public health rationale for the proposed amendments [HR20211654 refers].
25. COVID-19 is a highly infectious disease which may be spread by people who are not showing symptoms. This supports significant measures for those at heightened risk of contracting or spreading COVID-19 to identify potential cases and reduce the risk of any spread.

## Implementation

26. Officials have worked closely with the New Zealand Customs Service, Maritime New Zealand, the Ministry of Transport, the Ministry of Business Innovation and Employment, the Ministry for Primary Industries, and other stakeholders to develop the proposed amendments and will continue to work to ensure changes are implemented promptly.

## Next steps

27. Consult with the Minister of Health, Prime Minister, and Minister of Justice on this amendment order.
28. Following Ministerial consultation, officials will finalise the Amendment Order and provide you with a version for signing on 22 November 2021.
29. The Amendment Order will come into effect on 25 November 2021.

ENDS.

The Amendment Order is publicly available at:  
[www.legislation.govt.nz/regulation/public/2021/0158/  
latest/versions.aspx](http://www.legislation.govt.nz/regulation/public/2021/0158/latest/versions.aspx)

PROACTIVELY RELEASED