

**Version
as at 12 September 2022**



**COVID-19 Public Health Response (Maritime Border)
Order (No 2) Amendment Order (No 3) 2021
(SL 2021/412)**

COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order (No 3) 2021:
revoked, at 11.59 pm on 12 September 2022, pursuant to clause 3(1)(b) of the COVID-19 Public
Health Response (Revocations) Order 2022 (SL 2022/254).

This order is made by the Minister for COVID-19 Response 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

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

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) Amendment Order (No 3) 2021.

2 Commencement

This order comes into force at 11.59 pm on 12 December 2021.

3 Principal order

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

4 Clause 4 amended (Interpretation)

(1) In clause 4(1), insert in their appropriate alphabetical order:

regulator has the same meaning as in section 16 of the Health and Safety at Work Act 2015

specified ship means a ship that is scheduled to travel from a port or place in New Zealand to another port or place in New Zealand to load or unload cargo at that other port or place before leaving New Zealand

(2) In clause 4(1), definition of **new person**, replace paragraph (b) with:

(b) includes—

(i) an exempt crew member; and

- (ii) a crew member who is exempted by clause 26(2) or (4) or 28(2) from the requirement to enter into or complete a period of isolation or quarantine

(3) In clause 4(1), definition of **person who undertakes a necessary task**, after paragraph (h), insert:

- (ha) a warranted officer as defined in section 2(1) of the Conservation Act 1987;
- (hb) a person employed or engaged by the Transport Accident Investigation Commission;
- (hc) a person carrying out, or providing support services in relation to, testing for COVID-19;
- (hd) a person administering, or providing support services in relation to, vaccination against COVID-19;

5 Clause 11 amended (Director-General may permit ships to arrive in New Zealand despite clause 9)

After clause 11(2), insert:

- (3) A permission given under subclause (1) continues to apply to a ship arriving in New Zealand if—
- (a) the ship has travelled only within New Zealand’s territorial sea or New Zealand’s exclusive economic zone since it first relied on the permission; and
 - (b) every person on board the ship is complying with all requirements under subclause (2) that were imposed when the ship obtained the permission.

6 Clause 13 amended (Exemption for ships in distress)

(1) In the heading to clause 13, after “**distress**”, insert “**or other difficulties**”.

(2) Replace clause 13(a) and (b) with:

- (a) the master of the ship is satisfied that the ship is in distress; or
- (b) the master of the ship is satisfied that it is necessary for the ship to arrive in New Zealand in order to preserve human life; or
- (c) a medical officer of health is satisfied that a person on board the ship requires urgent medical care in New Zealand; or
- (d) the master of the ship is satisfied that the ship requires critical safety repairs.

7 Clause 14 amended (Master to give notice of arrival)

Replace clause 14(2) and (3) with:

- (2) The master must give between 168 and 192 hours’ notice before the ship arrives in New Zealand.

- (3) However, if it is not practicable for the master to give between 168 and 192 hours' notice of arrival, the master must instead give notice when the ship departs for New Zealand from a port or place outside New Zealand.

8 Clause 15 amended (Form and content of notice of arrival)

After clause 15(2)(c)(iii), insert:

- (iv) the status of each person on the ship with respect to vaccination against COVID-19, including the type of vaccine administered to the person and each date on which it was administered; and
- (v) for each person on board the ship, the results of tests for COVID-19 returned during the period specified in the notice; and

9 Clause 17 amended (General requirement to remain in isolation or quarantine)

- (1) In clause 17(2), replace “subsection (1)” with “subclause (1)”.
- (2) In clause 17(4A), after “New Zealand’s”, insert “territorial sea or New Zealand’s”.
- (3) Replace clause 17(4A)(b) and (c) with:
- (b) no person on board the ship came into physical contact with a person who was not on board the ship when it last departed from a port or place in New Zealand, unless the contact was approved in advance (with or without conditions) by the Director-General.
- (4) After clause 17(4A), insert:
- (4B) If a new person joins a ship and the ship has on board any person who is in isolation or quarantine under subclause (1)(a),—
- (a) the requirements of this clause apply to the new person with a period of isolation or quarantine of at least 10 days starting from the time at which and date on which the new person joins the ship; and
 - (b) for the purposes of that period of isolation or quarantine, this Part applies with all necessary modifications to the new person as if they were a person to whom subclause (1) applies.

10 New clause 17A inserted (Requirement to remain in isolation or quarantine when new person boards ship)

After clause 17, insert:

17A Requirement to remain in isolation or quarantine when new person boards ship

- (1) This clause applies if—
- (a) a person (**person A**) has ended their period of isolation or quarantine under clause 17; and

- (b) a new person (**person B**) joins the ship after that period; and
 - (c) person A is on board the ship at any time after person B joins the ship.
- (2) Despite person A having completed their period of isolation or quarantine under clause 17, the requirements of clause 17 apply again to person A, with a new period of isolation or quarantine of at least 10 days starting from the time at which and date on which person B joins the ship.
 - (3) The requirements of clause 17 apply to person B with a period of isolation or quarantine of at least 10 days starting from the time at which and date on which person B joins the ship.
 - (4) For any period of isolation or quarantine applied under subclause (2) or (3), this Part applies with all necessary modifications to persons A and B as if they were a person to whom clause 17(1) applies.

11 Clause 20 amended (Certain arrivals not required to complete period of isolation or quarantine to disembark)

- (1) Revoke clause 20(1)(e).
- (2) In clause 20(2), after “enforcement officer”, insert “, a health protection officer, a Customs officer, a medical officer of health, or the Director-General”.
- (3) After clause 20(2), insert:
- (2A) In subclause (1)(c), **medical services** includes testing for, or administering vaccination against, COVID-19.

12 Clause 21 amended (Person may disembark to undertake essential task)

Replace clause 21(2)(a)(iii) with:

- (iii) wearing personal protective equipment of a type, and in a manner, consistent with guidance provided by the regulator of their industry, if it is necessary for the person to come into physical contact with another person who did not arrive in New Zealand on the same ship; and

13 Clause 23 amended (Transfer to place of isolation or quarantine and start time)

- (1) In clause 23(1), replace “20(1)(e) or (f),” with “20(1)(f), 25A(2)(c),”.
- (2) Replace clause 23(2) with:
- (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), 19(4), 20(1)(f), or 26(3) of this order applies,—
 - (i) where all of the ship’s crew are transferred to a place of isolation or quarantine and the person is in isolation or quarantine immediately before the transfer, the more recent of the following times and dates:

- (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:
 - (ii) where some, but not all, of the ship's crew are transferred to a place of isolation or quarantine and the person is in isolation or quarantine immediately before the transfer, the time at which and date on which the person arrives at their place of isolation or quarantine under the Isolation and Quarantine Order:
- (b) if clause 25A(2)(c) 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.

(3) After clause 23(2), insert:

- (3) If subclause (2)(a)(ii) applies, a medical officer of health or health protection officer may reduce the period required at the place of isolation or quarantine if they are satisfied that every member of the crew being transferred meets the low-risk indicators.
- (4) If subclause (2)(b) applies, a medical officer of health or health protection officer may reduce the period required at the place of isolation or quarantine if they are satisfied that the person being transferred meets the low-risk indicators.

14 Clause 24 amended (Ships in isolation or quarantine)

Replace clause 24(2) with:

- (2) No person may board the ship except any of the following:
 - (a) a person who undertakes a necessary task:
 - (b) a person who joins the ship, provided that—
 - (i) they board the ship as close to its time of departure from New Zealand as is reasonably practicable; and
 - (ii) when they board the ship, they comply with the requirements of this Part, as if they were a person to whom clause 17(1) applies (and their period of isolation or quarantine continues for as long as any other person is in isolation or quarantine on board the ship).

15 Clause 25 amended (Obligations of persons undertaking necessary tasks)

Revoke clause 25(2).

16 New clause 25A inserted (Medical officers of health may exercise powers in relation to persons undertaking necessary tasks)

After clause 25, insert:

25A Medical officers of health may exercise powers in relation to persons undertaking necessary tasks

- (1) This clause applies to a person who undertakes a necessary task who boards a ship under clause 24(2)(a).
- (2) If a medical officer of health is satisfied that the nature of the task presents an increased risk of COVID-19 infection, the officer may require the person to do 1 or more of the following:
 - (a) report for and undergo additional testing and medical examination for COVID-19;
 - (b) enter into self-isolation for a period specified by the medical officer of health;
 - (c) move to a place of isolation or quarantine for the purpose of completing a period of isolation or quarantine as required by clause 23.
- (3) A power described in subclause (2) may be exercised only if 1 or more of the following apply:
 - (a) the person subject to the power has come into physical contact with any person on board the ship whose COVID-19 status is unknown;
 - (b) the person subject to the power failed, or was unable, to take 1 or more of the steps required under clause 25;
 - (c) there is a person with suspected, probable, or confirmed COVID-19 on board the ship.
- (4) If a person is required to enter into self-isolation under subclause (2)(b),—
 - (a) they must notify a medical officer of health, in the manner approved by the Director-General, of—
 - (i) the address of the residence or other accommodation that they intend to be their place of self-isolation; and
 - (ii) an email address and a telephone number at which they may be contacted; and
 - (b) they must remain at the accommodation notified to the medical officer of health as their place of self-isolation, unless otherwise permitted by clause 15G of the Isolation and Quarantine Order; and
 - (c) clauses 15D(1) and (3) to (5) and 15G of the Isolation and Quarantine Order apply with all necessary modifications to that person as if the person were a relevant worker under those provisions.

17 Clause 26 amended (Exemption for certain crew departing New Zealand)

- (1) In clause 26(1)(c), after “17(1)”, insert “or 28(5)”.
- (2) In clause 26(2)(b) and (4)(b), after “ship”, insert “(other than a specified ship)”.
- (3) Replace clause 26(3)(b) with:

- (b) the ship that the crew member wishes to board—
 - (i) does not depart from New Zealand as soon as is reasonably practicable; or
 - (ii) is a specified ship.

18 Clause 27 amended (Exempt crew members arriving in New Zealand by air)

In clause 27(1)(b)(i), after “ship”, insert “(other than a specified ship)”.

19 Clause 28 amended (Other crew members who arrive in New Zealand by air)

- (1) In clause 28(1)(b), after “ship”, insert “(other than a specified ship)”.
- (2) Replace clause 28(4)(b) with:

- (b) for the purpose of boarding—
 - (i) a specified ship; or
 - (ii) a ship that is scheduled to travel to another port or place in New Zealand without departing from New Zealand.

Dated at Wellington this 7th day of December 2021.

Hon Chris Hipkins,
Minister for COVID-19 Response.

Explanatory note

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

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

This order comes into force at 11.59 pm on 12 December 2021.

Clause 4 amends clause 4 of the principal order, including by—

- amending the definition of new person, to include a person exempted from completing a period of isolation or quarantine by clause 26(2) or (4) or 28(2); and

- amending the definition of person who undertakes a necessary task, to include new categories of persons; and
- inserting a new definition of specified ship, for the purposes of clauses 26 to 28.

Clause 5 amends clause 11 of the principal order by removing the requirement for a ship that has already been given permission to arrive in New Zealand to seek that permission again if, since being given permission to arrive in New Zealand under clause 11(1), the ship has only travelled within New Zealand's territorial sea or exclusive economic zone and every person on board has complied with the requirements in clause 11(2).

Clause 6 amends clause 13 of the principal order by providing additional cases where ships are exempted from clauses 8 and 9(1) of that order. The effect is to allow ships to arrive in New Zealand if urgent medical care is sought for a crew member of that ship or the ship requires critical safety repairs.

Clause 7 amends clause 14 of the principal order to provide a more specific period (168 to 192 hours) during which a ship's master must give notice before arrival in New Zealand.

Clause 8 amends clause 15 of the principal order to specify additional information that a notice of arrival must contain about persons on board a ship.

Clause 9 amends clause 17 of the principal order to clarify that the clause's requirements apply to a new person joining a ship that is already in isolation or quarantine. It also makes other minor amendments to clause 17.

Clause 10 inserts *new clause 17A* into the principal order. It specifies isolation or quarantine requirements for persons on board a ship at any time after a new person boards that ship.

Clauses 11, 12, and 15 make minor corrections or amendments.

Clause 13 amends clause 23 of the principal order to further clarify a person's start time for a period of isolation or quarantine when transferred to a place of isolation or quarantine. It also amends clause 23 to give a medical officer of health or health protection officer discretion to reduce this period of isolation or quarantine in certain cases.

Clause 14 amends clause 24 of the principal order to provide another exception to the prohibition on boarding a ship that contains a person in isolation or quarantine. This exception applies to a person who joins that ship, provided they join the ship as close as possible to the time of its departure from New Zealand and comply with the requirements of Part 3 of the principal order as if they were a person to whom clause 17(1) applies.

Clause 16 inserts *new clause 25A* into the principal order. It gives medical officers of health specified powers in relation to persons who undertake a necessary task. Those powers may be exercised only where 1 or more circumstances specified in *new clause 25A(3)* apply and the officer is satisfied that the nature of the task presents an

increased risk of COVID-19 infection to the person. The powers specified include requiring the affected person to do 1 or more of the following:

- report for and undergo additional testing and medical examination for COVID-19;
- enter into self-isolation;
- move to a place of isolation or quarantine to complete a period of isolation or quarantine.

Clauses 17 to 19 amend clauses 26 to 28 of the principal order to specify a further condition for ships that take on persons exempted from isolation or quarantine requirements by those clauses.

This order must be approved by a resolution of the House of Representatives before the end of the relevant period described in section 16(2) of the COVID-19 Public Health Response Act 2020. If that does not happen, the order is revoked at the end of that period.

Issued under the authority of the Legislation Act 2019.
Date of notification in *Gazette*: 8 December 2021.

Notes

1 *General*

This is a consolidation of the COVID-19 Public Health Response (Maritime Border) Order (No 2) Amendment Order (No 3) 2021 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

COVID-19 Public Health Response (Revocations) Order 2022 (SL 2022/254): clause 3(1)(b)