

In confidence

Office of the Minister of Health  
Office of the Minister of Customs

Cabinet

## **COVID-19 Strengthened maritime border restrictions**

### **Proposal**

- 1 This paper seeks agreement to amend the COVID-19 Public Health Response (Maritime Border) Order 2020 (“the Order”) to enhance agencies’ ability to provide assurance over vessels and people arriving into New Zealand by sea and to ensure that core public health principles are upheld to prevent the transmission of COVID-19 via the maritime border.
- 2 This paper also provides an initial estimate of resourcing requirements to implement the proposed changes to the Order.

### **Relation to government priorities**

- 3 The Order protects New Zealand from inward transmission of COVID-19 from people crossing the maritime border. The Order builds on the core public health principles that remain central to the effort to prevent transmission of COVID-19.

### **Executive Summary**

- 4 This paper seeks your agreement to amend the COVID-19 Public Health Response (Maritime Border) Order 2020 to effectively and efficiently manage processes at the maritime border to prevent the transmission of COVID-19.
- 5 It is proposed to expand testing and health assessment of vessel crews where people are disembarking. All crew members will need to meet the low risk indicators<sup>1</sup>, including testing negative for COVID-19 before anyone can disembark to enter New Zealand.
- 6 In line with the testing and health assessment approach, the following isolation rules apply:
  - 6.1 All vessels must have isolated at sea for at least 14 consecutive days without any contact with another person or vessel
  - 6.2 All people on board must have been symptom-free for the past 14 days
  - 6.3 where rules 6.1 or 6.2 are not met, isolation will be 14 days in a managed facility.

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<sup>1</sup> The low risk indicators are a negative COVID-19 test and a health assessment that shows the person is at low risk of having or transmitting COVID-19. These are currently set out in COVID-19 Public Health Response (Air Border) Order 2020 and would be adopted into this Order.

- 7 Crew of commercial vessels who do not meet these conditions will still be able to operate around the vessel (for example, loading or unloading) with appropriate safety protections but will not be able to leave the vicinity of the vessel.
- 8 To enhance the ability to plan for maritime arrivals, we recommend the Order be changed to require persons in charge of vessels to notify us they are coming when they leave port or are one week away (increasing the current requirement from 48 hours' notice). This will ensure that agencies have sufficient notice to manage the arrival of vessels and the people on board, including being present at remote ports, conducting health assessments and testing, confirming arrangements for transferring crew, and deciding whether to divert vessels to other ports where isolation facilities are available.
- 9 Where it is practical to have on-vessel isolation, effective controls and security will be needed to ensure that it is strictly adhered to. Where on-vessel isolation is not an option in the view of the health authorities or enforcement officers (most likely in the case of yachts and other pleasure craft), all people wishing to disembark into New Zealand will be required to enter managed isolation facilities, just like air travellers.
- 10 Given the potential harms from a resurgence of COVID-19, the level of supervision and physical presence far exceeds past usual practices at the maritime border. These new arrangements will therefore impose a considerable resource demand on Customs and other agencies that cannot be managed within existing baselines.
- 11 Customs estimates that **§ 9(2)(g)** fulltime equivalent staff will be required for this task. It is expected to cost between **§ 9(2)(g)(i) OIA** in staff and operating costs over a 15 month period (from 1 September 2020 to 31 December 2021). We expect that some of these staff will be provided by Customs and other agencies through redirection from other duties. A further paper will be prepared giving the resource requirements in more detail and seeking approval of the necessary expenditure.
- 12 Over time, Customs expects to move towards a more risk-based approach that may allow for a reduction in staff and other resource requirements. In the short term, a high presence approach is needed to provide the necessary level of assurance at the maritime border.

## Background

### *The COVID-19 Public Health Response (Maritime Border) Order 2020*

- 13 The current Order sets out controls and processes around vessels and people arriving into New Zealand by sea. These include:
  - 13.1 listing the classes and categories of vessels that can enter New Zealand
  - 13.2 specifying that arrivals must have isolated for 14 days in New Zealand waters since last port or contact and all crew are symptom free to be able to disembark and enter New Zealand, whether for shore leave or to stay
  - 13.3 detailing the process for the arrival and departure of replacement crews.

- 14 New Zealand vessels and foreign vessels with people entitled to be in New Zealand (citizens mainly, but also permanent residents that live here) are allowed into New Zealand. Any person seeking entry into New Zealand that is not in those categories must meet one of the exemptions or exceptions to the immigration rules.
- 15 Though often the proposals in this paper apply to all vessels, vessels are categorised into two classes<sup>2</sup> in some parts of this paper:
  - 15.1 Commercial, which includes cargo vessels, fishing and other vessels that are operating for economic purposes
  - 15.2 Pleasure craft, which includes yachts and other similar small vessels, super yachts and other vessels that move about for the enjoyment of the people on them.
- 16 Cruise ships are not currently permitted to enter New Zealand. We do not propose to change that at this time although Maritime New Zealand is leading a discussion with cruise lines regarding the circumstances and pre-conditions for small cruise vessels to operate in New Zealand waters. Any recommendation to allow cruise ships to return to New Zealand will require a future change to the Order.
- 17 The Order is likely to remain in force for the foreseeable future. It is subject to regular reviews. This paper meets the Cabinet requirement to review the Order after 4 weeks of operation [CAB-20-SUB-0299 refers].

*Maritime arrivals and movements around New Zealand remain busy*

- 18 As shown in Table One below, 277 vessels are expected to arrive in New Zealand during July 2020. This is similar to the number of arrivals for previous months. Most will be cargo ships, but some fishing vessels and a few others are expected.

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<sup>2</sup> There are other classes of vessel already covered by the Order, including State Vessels (such as Navy) or research vessels.

*Table One: Vessels and crew arriving in New Zealand in July 2020 (actual and forecast)*

Customs Port	Total Vessels arriving in Port	Total Crew members arriving in Port	Crew members sign-off <sup>3</sup>	% of total crew sign-offs
<b>Opuā</b>	5	8	8	16%
<b>Marsden Point</b>	9	169	1	2%
<b>Auckland</b>	34	628	12	25%
<b>Tauranga</b>	84	1,845	5	10%
<b>Gisborne</b>	-	-	-	-%
<b>New Plymouth</b>	19	434	2	4%
<b>Napier</b>	15	309	4	8%
<b>Wellington</b>	22	484	-	0%
<b>North Island Total</b>	<b>188</b>	<b>3,877</b>	<b>32</b>	<b>65%</b>
<b>Nelson</b>	18	400	-	-%
<b>Picton</b>	5	88	-	-%
<b>Lyttelton</b>	23	482	12	25%
<b>Timaru</b>	11	232	-	-%
<b>Dunedin</b>	20	420	-	-%
<b>Bluff</b>	12	242	5	10%
<b>South Island Total</b>	<b>89</b>	<b>1,864</b>	<b>17</b>	<b>35%</b>
<b>All arrivals</b>	<b>277</b>	<b>5,741</b>	<b>49</b>	<b>100%</b>

- 19 In general, those crew who are signing off or on (both arriving and departing) are not going into isolation - the majority go straight from airport to port (and onto the vessel) or vice versa. Sometimes replacement crew require use of managed isolation facilities (MIF) for a short time (1-2 days), when they cannot immediately go to their flight or vessel.
- 20 As shown in Table One, some of these crew enter New Zealand at smaller provincial ports, such as Napier, New Plymouth and Bluff, which can make it more difficult to access a MIF.

*And we expect more pleasure craft to begin arriving in New Zealand*

- 21 In the past, approximately 400-500 pleasure craft have arrived in New Zealand each year. It is difficult to predict how many will arrive in the next summer season, starting from September, as a number of New Zealand vessels that would have left for the winter earlier this year are still in New Zealand waters and so there are fewer regular returning vessels to come. Officials understand that there are 300 to 500 pleasure craft currently in the Pacific, some of which will likely seek to enter New Zealand.

<sup>3</sup> Sign off crew leave vessels and enter New Zealand for medical reasons (which may involve hospital or other treatment), for crew transfers or as their final destination. The latter two may require isolation.

- 22 The America's Cup regatta (initial activities commence in December 2020) is also likely to increase the number of vessels seeking to come to New Zealand during summer 2020/2021. Many will want to seek entry and to have any isolation or other requirements met before the racing starts. Any recommendation for foreign vessels or nationals to attend the regatta would require an amendment to the Order. Any people arriving that are not NZ citizens or permanent residents, will require approval from Immigration New Zealand.

### **Implementation of the Maritime Order is under way**

- 23 The New Zealand Customs Service is leading the implementation of the Order at ports, and is working closely with the Ministry of Health, the Ministry of Business Innovation and Employment (MBIE) and Managed Isolation and Quarantine (MIQ).
- 24 The Director-General of Health has authorised Customs officers as enforcement officers for the purpose of implementing the Order. Customs officers meet vessels, work with ships' masters, shipping agents, and port authorities. Customs officers will support Health workers assessing and testing arriving people, and other agencies (including Police for any enforcement), to ensure people on vessels comply with the Order.
- 25 The core implementation strategy is a layered security approach to achieve the core public health principles central to preventing the transmission of COVID-19.
- 26 This layered approach builds on isolation (either on board the vessel or in a MIF) as the best way to prevent transmission of COVID-19 into New Zealand by:
- 26.1 holding vessels' masters and individual crew members and passengers accountable for meeting their obligations under the Order
  - 26.2 taking a risk-based approach, based on information provided in advance of arrival
  - 26.3 using existing port security arrangements to monitor and control the movements of the people on vessels<sup>4</sup>
  - 26.4 maintaining a high presence approach, led by Customs across all New Zealand ports, to ensure that all vessels are met and the requirements of the Order are understood by the vessel's master and by all crew and passengers
  - 26.5 ensuring that people who are permitted to leave vessels do so safely, by maintaining hygiene, physical distancing and Personal Protective Equipment (PPE) requirements, and by using MIQ processes to transport them to airports (if part of a crew exchange), or into managed isolation or quarantine as required.

- 27 s 6(c) OIA

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<sup>4</sup> s 6(c) OIA

s 6(c) OIA

## **Changes to provide an efficient but secure maritime border**

### *Health assessment and testing of arrivals, and associated isolation requirements*

- 28 To provide more assurance that the maritime border does not become a source of COVID-19 risk, the Ministry of Health proposes to broaden the extent and coverage of testing for COVID-19.
- 29 The Order currently allows for a Medical Officer of Health or a Health Protection Officer to require a person who arrives in New Zealand on board a ship to report for, and submit to, medical examination and testing. Up to now, testing has been happening at the maritime border in accordance with the nationwide testing strategy. Numbers of those tested at the maritime border are included in daily testing numbers and not available separately.
- 30 Testing is in addition to the core public health measures, including at least 14 days isolation on-board from last port or in managed isolation, physical distancing, basic hygiene measures, appropriate use of PPE and appropriate action if symptomatic. Appropriate health professionals will administer all tests and health assessments.
- 31 We recommend that anyone seeking to enter New Zealand permanently, or temporarily for shore leave, be required to meet the low risk indicators. The Order will define the low risk indicators as a negative COVID-19 test and a health assessment that shows the person is at low risk of having or transmitting COVID-19. This is the same definition of low risk indicators used in the Air Border Order and elsewhere in the Maritime Border Order.
- 32 Where someone on a vessel wishes to enter New Zealand then they will need to meet the following criteria:
  - 32.1 all the people on the vessel must have completed at least 14 days on board in isolation (including the travel time to New Zealand)
  - 32.2 the people on the vessel have all been symptom free for the past 14 days
  - 32.3 all people on the vessel meet the low risk indicators (including testing negative for COVID-19).
- 33 Where the criteria in paragraph 32 have not been met (for example, where not all on board the vessel have been tested), then anyone seeking to enter New Zealand will require 14 days isolation in a managed facility.
- 34 If there is a positive test among those on board the vessel, the positive case would need to be quarantined and the rest of the people will need to either stay on board (if

the ship is departing) or complete a further 14 days managed isolation, if entering New Zealand is the aim.

- 35 Those people who do not meet low risk indicators (or who are not assessed and tested) will be considered high risk and protocols around their movements will reflect this. This includes, for example, transfer crew, who will be required to travel via secure and dedicated transport between the vessel and their means of leaving New Zealand (discussed further below).
- 36 As part of its updated COVID-19 testing strategy, the Ministry of Health will now be offering all port workers voluntary COVID-19 testing. This will include:
  - 36.1 pilots meeting vessels, stevedores loading or unloading vessels and other port workers or people meeting vessels (for example, shipping agents); and
  - 36.2 all officials meeting or processing arriving vessels or the people on them (for example, border officials, Medical Officers of Health, Health Protection Officers, or people conducting COVID-19 health assessments or testing).
- 37 This targeted testing of shore-based port workers is starting to be rolled out. Testing of crew is also feasible once planning and operational arrangements are put in place. Processes will be in place to track the numbers tested at the maritime border via the targeted testing regime.
- 38 Health officials will continue to ensure a fit-for-purpose testing regime for the maritime border is in place.

*Where isolation requirements do not apply*

- 39 Most international cargo ships spend no more than 6-7 days in NZ, making an average of 2.5 port visits per voyage.<sup>5</sup> As crew on these ships do not typically seek to enter New Zealand, it is not likely that such crew will need to meet isolation requirements. As noted above, these crew are considered high risk, and the protocols for port workers operating on and around the vessels reflect that.

*Pre-arrival enhancements*

Vessels to provide longer notice of their intention to arrive in New Zealand

- 40 Currently, a person in charge of a vessel must give 48 hours' notice of their intended arrival in New Zealand. While this is acceptable under normal circumstances, the period of notice is insufficient for the management and coordination of isolation and quarantine requirements under COVID-19.
- 41 Therefore, we propose to amend the Order to require the person in charge of arriving vessels to provide:
  - 41.1 either:

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<sup>5</sup> The time spent in each port varies according to the type of ship and the nature of cargo carried with container ships (which make up 46% of non-passenger vessel visits to NZ) spending a median average of only 17 hours berthed before moving on to the next port and bulk carriers (next largest category of vessel types at 27%), spending a median average of 2.4 days berthed before departing the port.

- 41.1.1 notice that they have departed from a port and are heading for New Zealand; or
  - 41.1.2 notice that they are one week (or 168 hours) away from their intended arrival in New Zealand (whichever is earlier); and
  - 41.2 updates of their progress towards New Zealand (potentially daily), at times directed by the appropriate authorities.
- 42 We also recommend requiring the person in charge of an arriving vessel to participate in the 'allocation' system that MIQ is developing for persons arriving in New Zealand. The person in charge will need to obtain a MIF slot at the closest place to their intended port of arrival, for all persons on board where they anticipate they will need such facilities, or where advised by Health authorities that a person must go into a MIF. The confirmation of their slot should be part of the notification requirements. This booking will be done manually for the foreseeable future.
- 43 The earlier advance notice will be received by Customs, and the information in it will be shared (as appropriate) with agencies with responsibilities under the Order. This will ensure effective operational planning and decisions, from meeting the vessel, testing, transfer arrangements and allocation to a MIF.

Some vessels may be directed to a safer arrival port

- 44 There is a power available to Customs officers under the Customs and Excise Act 2018 to direct a vessel arriving in New Zealand or that has arrived in New Zealand to go to a port other than where the person in charge of the vessel has nominated as the port of arrival. It is proposed that this power be used in cases where the required isolation cannot be safely or securely provided and the vessel needs to be directed to go to a port other than their nominated port of arrival.
- 45 Use of this power would be most likely for pleasure craft. It would be highly unlikely to be used for commercial vessels. Customs would in the first instance seek to work with the vessel's master to avoid diverting vessels as much as possible.

*Commercial vessel operations*

Port workers to be required to adopt safety measures

- 46 Currently, the general requirements of Health and Safety legislation and good management practices require port companies to protect workers' health. In addition, the Order requires those going onto commercial vessels to protect their and others' health by following appropriate processes and wearing PPE.
- 47 However, some port workers may not go onto the vessel but in working in the vicinity of it could be exposed to the vessel's crew. To manage the health risk to port workers, we propose to extend clause 21 of the Order to require these workers to:
- 47.1 maintain physical distancing (to the greatest extent practicable) from any person from the vessel (who should be considered high risk); and
  - 47.2 wear appropriate PPE.



- 48 These requirements will be enforced by Customs as part of its ongoing port monitoring functions.

People leaving a vessel to also adopt safety measures

- 49 People on a vessel need to work around it and on it (such as to assist with the discharge of cargo), and may go to other places in the port for work-related reasons.
- 50 As these people are considered high risk, they should be required to meet the same requirements as port workers to prevent them potentially exposing others to COVID-19. To that end, we propose to extend clause 13 of the Order to require those leaving any vessel (for any purpose) to:
- 50.1 maintain physical distancing (to the greatest extent practicable) from any person they may approach or be near; and
- 50.2 wear appropriate PPE.
- 51 These requirements will be enforced by Customs as part of its ongoing port monitoring functions.

*All transfers between ports, airports and MIFs to be managed by MBIE*

- 52 Currently, the transfers of crews directly to and from airports are usually managed and arranged by the employer or shipping agent. In the relatively few instances that maritime crew need to go into managed isolation, these transfers are also privately organised. s 9(2)(g)(i) OIA
- 53 We propose that the Order be amended to require all transfers of crew or others arriving in New Zealand to be managed by MBIE with input from the Medical Officer of Health. MBIE will use the processes and arrangements in place for the air border. These processes already have the ability to effectively transfer large numbers of people, without compromising public health or infection prevention and control measures. Customs will ensure people are safely managed until they can be transferred.
- 54 To make the transfers safely and effectively, MBIE needs some time to organise the logistics and personnel to make the transfers. We propose that the person or organisation representing them be required to provide at least four days (96 hours) notice of the transfer required (earlier if possible). Prior notice can also be given as part of the pre-arrival notifications, where appropriate.

*Isolation on the vessel where appropriate*

- 55 Crews of most commercial vessels will remain isolated on the vessel and separated from anyone in New Zealand. They will continue to be able to carry out essential work on or around the vessel but will need to do so using protocols for managing high risk, such as strict physical distancing, correct use of PPE and sanitation measures.
- 56 For pleasure craft with few crew, arrivals could remain on-board and isolated from anyone else at the berth. This is allowed under the current Order. We recognise that there are significant risks that people will leave the vessel or interact with people on

other vessels (either nearby or passing by) if on-vessel isolation is not supervised and conducted securely. To that end, we propose that the Order require:

- 56.1 other craft or people to stay away from vessels in isolation
- 56.2 people on vessels in isolation to remain on the vessel and to not interact with other people or vessels.
- 57 People undertaking on-vessel isolation will still need to have a test and health assessment to meet the low risk indicators to be able to disembark at the end of the isolation period.
- 58 It is likely that for many smaller pleasure craft, the marina or port facilities will not be suitable and adequate security will not be available, or the vessel itself may not be appropriate for on-vessel isolation. We propose to amend the Order to require the people on board a vessel in those circumstances to leave it and go into a MIF, where directed to do so by a Medical Officer of Health or a Health Protection Officer, or by an enforcement officer following consultation with a Medical Officer of Health or a Health Protection Officer.

*Use existing MIF capacity for maritime arrivals*

- 59 We propose that existing MIF capacity be used for all maritime arrivals requiring isolation. While exact numbers are uncertain, officials consider the number of maritime arrivals requiring isolation will remain low. Those managing MIF have been consulted, and have made an allowance for maritime arrivals within the existing capacity.
- 60 To assist in the planning and running of MIF, we will use the proposed earlier notification, ongoing monitoring of vessels, and proposed redirection powers to ensure people arriving on vessels go to where capacity is available, and that they can be safely transported there.
- 61 Any capacity constraints this may create will be addressed in the next MIQ funding paper.

*Enforcement is proposed to include an infringement regime*

- 62 Constables, Medical Officers of Health and Health Protection Officers have powers to enforce the Order. Customs officers have been authorised to enforce the Order at sea ports since 13 July 2020.
- 63 To provide an additional option, we propose that the infringement regime in place under the COVID-19 Public Health Response Act 2020 apply to some of the requirements in the Order. This will enable infringement notices to be issued by enforcement officers. The clauses in the Order (as redrafted) which are proposed to become infringement offences are:
  - 63.1 Clause 13(2) with the amendment proposed in this paper, where people leaving vessels do not remain close to the vessel, or do not maintain physical distancing or do not wear PPE, or do not follow the directions of an enforcement officer

- 63.2 Clauses 16(4), 17(3) and 18(3) where the person does not follow the directions while moving
- 63.3 Clause 21(1) with the amendment proposed in this paper, where people leaving vessels do not remain close to the vessel, or do not maintain physical distancing or do not wear PPE, or do not follow the directions of an enforcement officer
- 63.4 New clause where people interact with people or vessels in isolation on the vessel, or where people in isolation on the vessel interact with others (see paragraph 55 above).
- 64 We will work with the Ministry of Justice to ensure that these infringements are appropriate and proportionate.
- 65 Where the person directed to do something is non-compliant, and efforts by enforcement officers to ensure compliance have been unsuccessful, the person may be arrested (by a constable) and potentially prosecuted.

*Additional proposed changes to the Maritime Border Order*

- 66 In addition to the major changes recommended above, there are some minor and technical changes required to the Order that will not further materially impact on roles, responsibilities, obligations or individual rights. These include:
  - 66.1 minor policy changes
  - 66.2 technical and definitional amendments
  - 66.3 clarifying the operation of parts of the Order.
- 67 We seek Ministers' agreement to delegate to the Ministers of Customs, Health and Housing (the Ministers responsible for the overall system) the power to make those decisions and instruct Parliamentary Counsel Office.

## **Operational Implications**

*Required staff and other resources for enhanced maritime border management*

- 68 The current estimate of providing the above level of response for Customs would be **s 9(2)(g) (i) OIA** fulltime equivalent (FTE) staff. Although it is expected that some of these staff would be provided by Customs and other agencies through redirecting staff from current duties, **s 9(2)(g)(i) OIA**
- 69 The additional staff will be actively responding and meeting vessels, and would:
  - 69.1 ensure that there was operational presence for arriving vessels in all ports
  - 69.2 monitor and provide assurance around the operation of commercial vessels, and the port workers operating around them, in all ports
  - 69.3 where required and appropriate, direct vessels to where there are managed isolation facilities for those on board to use

- 69.4 assist and supervise the transfer of people arriving on vessels to transport to managed isolation facilities
- 69.5 contribute to a dedicated operational headquarters, to coordinate and provide oversight of all deployment, reporting, response and assurance activities, and to communicate regularly with ports' management and security and shipping agents
- 69.6 provide support and operational oversight of these activities.
- 70 Other costs incurred would be the tools, travel and accommodation necessary for staff to operate effectively and safely. This includes vehicles capable of operating in port environments. PPE will also be needed.
- 71 Costs will be incurred to recruit and train staff. Training in Health and Safety is mandatory when working on ports. § 9(2)(g)(i) OIA

*Response capability for unexpected arrivals required*

- 72 The nature of the maritime domain means that there has to be a degree of flexibility built into the operating model. Vessels can be delayed by weather or other factors, so our operational capacity needs to be available, without knowing a precise time of arrival.
- 73 Also, there needs to be ability to respond to the unexpected. § 6(c) OIA

*Estimate of financial requirement*

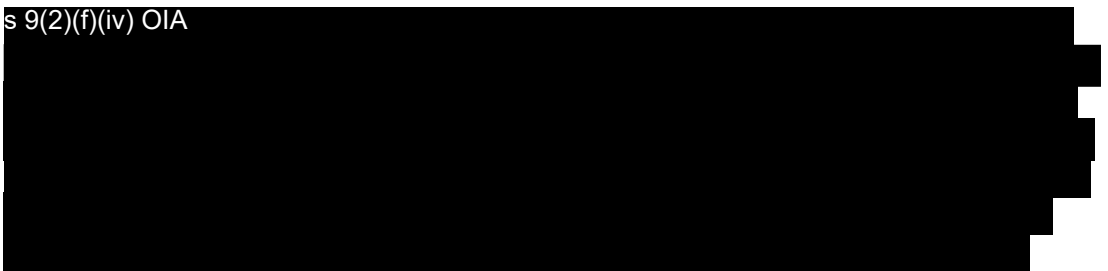
- 74 § 9(2)(g)(i) OIA
- 75 The resource requirement may reduce over time. Customs intends to adopt a risk-based management approach that will be more efficient. This, along with earlier notification of vessel arrivals, should allow a much better picture of the movement and intent of vessels. This will allow earlier identification of where and when resources will be required, allowing more effective and quicker responses to meet those vessels, thus reducing the costs.

*Additional costs to Health authorities*

- 76 There are likely to be financial implications for Health as a result of the proposals in the Order. These include costs to the health system, especially DHBs and Public Health Units in workforce, testing, and health service provision.

77 Based on our early calculations, the changes to the Order are not likely to have a large fiscal impact (in terms of the additional cost of testing crew) on the Ministry of Health or the health sector. This said, our early modelling is based on explicit assumptions about the average number of eligible crew seeking to disembark in New Zealand. It does not take into account the possible costs of time and transport for health workers who may need to visit remote ports to undertake the testing. Further work is needed to clarify how many maritime vessels will be diverted from smaller ports to larger ones before those further costs can be calculated.

78 s 9(2)(f)(iv) OIA



79 The Ministry of Health will work with Customs and the Ministry of Transport to refine our modelling of the new costs associated with the amended Maritime Border order as part of forthcoming implementation planning efforts.

80 Additional MIF requirements need to be estimated and are not covered in this paper.

*Further detailed costings to come*

81 MBIE is preparing a paper detailing the MIF requirements, due in late August. Detailed costings for the proposed staffing requirements discussed above will be incorporated in that paper.

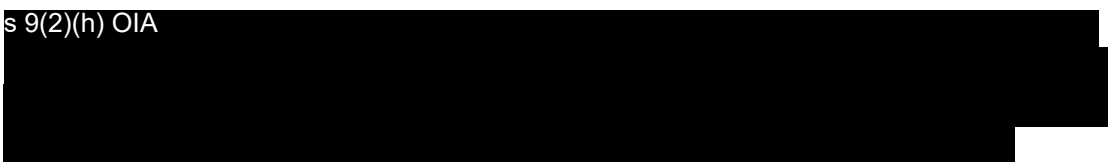
### **Legislative Implications**

82 This paper proposes amendments to the COVID-19 Public Health Response (Maritime Border) Order 2020. If agreed, then Parliamentary Counsel estimates it will take two weeks to draft the new Order, meaning it could come into effect in late August.

83 The Minister of Health makes the changes to the Order in accordance with the Cabinet directions, and makes amendments in accordance with sections 9 and 11 and clause 1 of Schedule 1 of the COVID-19 Public Health Response Act 2020.

### **International Law Implications**

84 s 9(2)(h) OIA



## Impact Analysis

### *Regulatory Impact Statement*

- 85 Cabinet's Impact Analysis requirements apply to the proposals. The proposals in the paper relate to the government's response to the COVID-19 outbreak, but do not qualify for an exemption as they are not urgently required to be effective. As no Regulatory Impact Statement has been provided, the Cabinet's Impact Analysis rules require preparation of a Supplementary Analysis Report.
- 86 The changes in this proposal are part of a broader set of proposals on the management of New Zealand's borders during the COVID-19 pandemic that are being proposed and assessed separately. A fragmented impact assessment of these proposals limits the understanding of their interactions and potential alternatives and may create unintended consequences. The Treasury recommends that the Supplementary Analysis Report is integrated into a more comprehensive analysis of the suite of border management proposals.

### *Climate Implications of Policy Assessment*

- 87 No Climate Implications of Policy Assessment is required.

## Treaty of Waitangi Implications

- 88 The Order and its enhancements have no direct effect on Treaty of Waitangi implications or for Crown-Maori relations. The reduction in isolation time may mean that some crew are able to return to New Zealand more easily.

## Population Implications


- 89 These decisions will have no differential impact on any population groups. These will form part of the overall set of border restrictions though, and these border restrictions will lower economic activity collectively (which may result in disproportionate effects on some groups).

## Human Rights

- 90 s 9(2)(h) OIA

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92 s 9(2)(h) OIA




### Consultation

93 This paper has been jointly prepared by Customs (the lead agency for the implementation of the Order) and the Ministry of Health (the agency responsible for the Order).

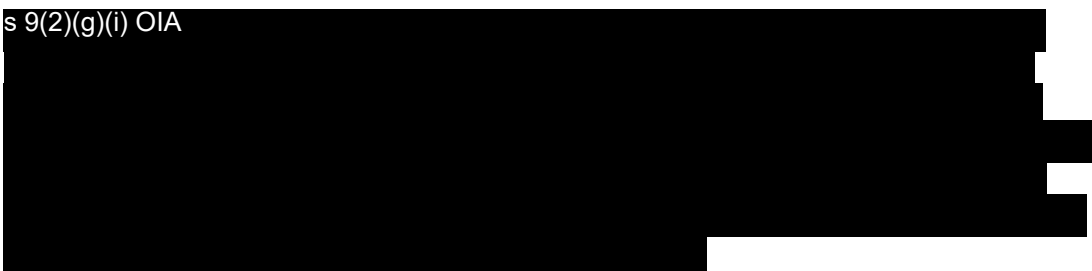
94 It has received input and is supported by the Ministries of Business, Innovation and Employment; Foreign Affairs and Trade; Justice; and Primary Industries. New Zealand Police has been consulted.

95 The Ministry of Transport and Maritime New Zealand support the proposed changes as it will lead to welfare improvements for some seafarers.

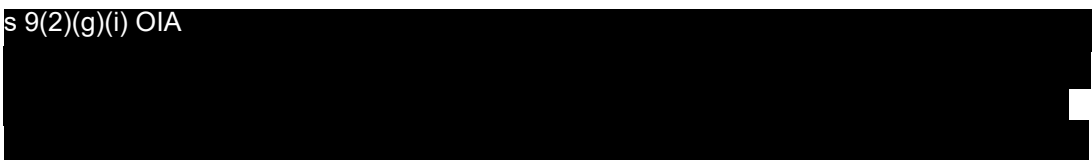
96 s 9(2)(g)(i) OIA




97 s 9(2)(g)(i) OIA



98 s 9(2)(g)(i) OIA



99 s 9(2)(h) OIA



The Department of the Prime Minister and Cabinet and the Treasury have been informed.

## Implementation

- 100 As noted above, implementation is proceeding. The proposed changes and options in this paper will make this implementation significantly simpler to progress.
- 101 Agencies will report to the Ministers of Customs and Health on a weekly basis on activities at the maritime border.

## Communications

- 102 A statement about changes will be added to existing information on the Unite for the Recovery website (<https://uniteforrecovery.govt.nz/>). Similar statements will be added to the websites of the border agencies where people often seek information about travelling to New Zealand.
- 103 The new rules and restrictions will be proactively communicated to industry and maritime associations to pass onto their members and to commence a dialogue about the processes for moving towards normality. To inform the relevant people of the changes and the opportunity to engage with New Zealand over the situation, details will be added to industry websites that contain country-specific information that are used by international shipping practitioners.
- 104 The key element will be communicating to all arriving craft about the extended notice requirement. This will be important to generate compliance from pleasure craft in particular. The current 48 hour requirement is well known, and getting people to adjust their practice will be problematic. A significant communications exercise will need to be undertaken.

## Proactive Release

- 105 It is intended to proactively release this paper on Departmental websites once the matters are no longer under active consideration, subject to any appropriate withholding of information that would be justified if the information had been requested under the Official Information Act 1982.

## Recommendations

- 106 The Minister of Customs and the Minister of Health recommend that the Committee:
- Health assessment and testing of arrivals, and associated isolation requirements*
- 1 **note** that the Ministry of Health will continue to ensure a fit-for-purpose testing regime for the maritime border is in place;
  - 2 **note** that the COVID-19 Public Health Response (Maritime Border) Order 2020 defines ‘low risk indicators’ as a negative COVID-19 test and a health assessment that shows the person is at low risk of having or transmitting COVID-19
  - 3 **agree** that the COVID-19 Public Health Response (Maritime Border) Order 2020 be amended to require that any person wishing to enter New Zealand temporarily for shore leave or permanently to enter New Zealand from a maritime vessel be permitted to do so provided:



- a. that all crew on the vessel test negative for COVID-19, and
  - b. it has been at least 14 days since its last port visit or contact with another vessel (or other people), and
  - c. all people on board the vessel have been symptom-free for the past 14 days, and
  - d. all people on board the vessel have been assessed as meeting the low risk indicators
- 4 **agree** that in any other case, any person seeking to enter New Zealand from a maritime vessel be required to undertake managed isolation for 14 days
- 5 **agree** that the COVID-19 Public Health Response (Maritime Border) Order 2020 be amended to require that: where isolation on the vessel is not appropriate, a Medical Officer of Health or Health Protection Officer can direct the people on the vessel to leave it and enter a managed isolation facility
- 6 **note** that, under these new provisions, the crew of commercial vessels may continue to operate safely around the vessel without completing any isolation in New Zealand, as they are not seeking to enter New Zealand
- 7 **direct** that Health and Customs work together to strengthen the testing regime that applies to port workers
- 8 **direct** that the Ministry of Health work with urgency to finalise arrangements to ensure there is no risk of COVID-19 infection from the maritime border by seafarers disembarking after at least 14 days isolation.

*Pre-arrival enhancements*

- 9 **note** that the current requirement to provide advance notice of arrival in New Zealand (set out in the Custom and Excise Act 2018) specifies 48 hours advance notification;
- 10 **agree** that the COVID-19 Public Health Response (Maritime Border) Order 2020 be amended to require notice from the person in charge of a vessel intending to come to New Zealand either:
- a. one week (168 hours) before they arrive in New Zealand; OR
  - b. immediately on their departure from port if the expected journey time to New Zealand is less than a week;
- 11 **agree** that the COVID-19 Public Health Response (Maritime Border) Order 2020 be amended to require notifications from the person in charge of the vessel as it approaches New Zealand, at timeframes specified by the authorities monitoring the vessel's progress;
- 12 **agree** that the person in charge of an arriving vessel must seek and obtain an allocation at a Managed Isolation Facility at the closest place to their intended port of arrival, for all persons on board the vessel proposing to enter New Zealand who will require isolation on arrival;

- 13 **note** that for the purpose of enabling effective management of and security for the isolation of the vessel or the people on board, Customs officers will use existing powers under the Customs and Excise Act 2018 if it is necessary to direct a vessel arriving in New Zealand or that has arrived in New Zealand to go to a port other than where the person in charge of the vessel has nominated as the port of arrival in New Zealand;

*Port workers and people leaving the vessel to be required to adopt safety measures*

- 14 **note** that the Maritime Border Order requires use of social distancing and protective equipment by port workers or others going onto vessels;
- 15 **note** some workers may work around vessels or the crew of a vessel but not actually go onto a vessel, and some people on vessels may leave to work around it or go into port facilities and must be considered high risk when doing so;
- 16 **agree** that the COVID-19 Public Health Response (Maritime Border) Order 2020 be amended to require that port workers and people leaving the vessel for any purpose must:
- a. maintain physical distancing (to the greatest extent practicable) from any other person and
  - b. wear appropriate personal protective equipment;

*All transfers between ports, airports and MIFs to be managed by MBIE*

- 17 **note** that most crew changes require no isolation, as the crew go directly from the vessel to the airport (or vice versa);
- 18 **note** that transfers to and from Managed Isolation Facilities and to and from ports and airports, will be managed by the Ministry of Business, Innovation and Employment with input from a Medical Officer of Health;
- 19 **agree** that the COVID-19 Public Health Response (Maritime Border) Order 2020 be amended to require a person (or the organisation representing them) that needs a transfer to or from a Managed Isolation Facility to notify the Ministry of Business, Innovation and Employment at least four days (96 hours) prior to the need for the transfer;

*Isolation on the vessel where appropriate*

- 20 **note** that where a secure berth and supporting monitoring system can be arranged, isolation on a yacht or other pleasure craft is possible, if the vessel is appropriate;
- 21 **agree** that the COVID-19 Public Health Response (Maritime Border) Order 2020 be amended to require other craft and people to stay away from yachts and other pleasure craft in isolation;
- 22 **agree** that the COVID-19 Public Health Response (Maritime Border) Order 2020 be amended to require people on yachts and other pleasure craft in isolation to remain on the vessel and to not interact with other people or vessels, except as otherwise allowed;

*Use existing MIF capacity for maritime arrivals*

- 23 **note** that existing Managed Isolation Facility capacity will be used for any maritime arrivals requiring on-shore isolation;

*Enforcement is proposed to include an infringement regime*

- 24 **note** that where enforcement officers cannot achieve compliance through effective engagement and encouragement, Police will undertake any further action required;
- 25 **agree** that the infringement regime in the COVID-19 Public Health Response Act 2020 be applied to the powers under the COVID-19 Public Health Response (Maritime Border) Order 2020 (where appropriate) to give enforcement officers an additional enforcement option;

*Authorisation for drafting instructions and additional minor changes to the Maritime Border Order*

- 26 **invite** the Ministers of Customs and Health to issue drafting instructions to the Parliamentary Counsel Office to give effect to the above recommendations;
- 27 **note** that there are additional minor policy, technical, definitional and clarification changes proposed to be made to the COVID-19 Public Health Response (Maritime Border) Order 2020 that do not further materially impact on roles, responsibilities, obligations or individual rights;
- 28 **authorise** the Ministers of Customs, Health and Housing to make decisions consistent with the overall policy in this submission and issue drafting instructions to the Parliamentary Counsel Office on minor policy, technical, definitional and clarification changes to the COVID-19 Public Health Response (Maritime Border) Order 2020;

*Infringement regime to apply to some components of the Order*

- 29 agree that the infringement regime in place under the COVID-19 Public Health Response Act 2020 apply to some of the requirements of the Order (as specified in paragraph 62 above)

*Financial impacts*

- 30 **note** that it is estimated that Customs will require s 9(2)(g)(i) OIA to effectively implement the Order;
- 31 **note** that while some limited redirection of staff from current duties and other agencies will be possible to meet requirements, s 9(2)(g)(i) OIA will need to be new staff;
- 32 **note** that the additional staff and operating costs are estimated for Customs to be between s 9(2)(g)(i) OIA over 15 months (September 2020 to December 2021); and

- 33     **note** that the Ministers of Customs, Health and Housing will report back to Cabinet on options for implementing the COVID-19 Public Health Response (Maritime Border) Order 2020 in August 2020, seeking approval for the necessary additional expenditure, as part of an upcoming funding paper for managed isolation and quarantine requirements.

Authorised for lodgement

Hon Chris Hipkins  
Minister of Health

Hon Jenny Salesa  
Minister of Customs