



## COVID-19 (Maritime Border) Regulations 2021

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Sir Tom J. Marsters, KBE

Queen's Representative

### Order in Executive Council

At Avarua, Rarotonga this 20<sup>th</sup> day of April 2021

**Present:**

### His Excellency the Queen's Representative in Executive Council

Pursuant to section 32 of the COVID-19 Act 2020, His Excellency the Queen's Representative, acting on the advice and with the consent of the Executive Council, makes the following regulations—

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## Regulations

### 1 Title

These regulations are the COVID-19 (Maritime Border) Regulations 2021.

### 2 Commencement

These regulations come into force on the day after they are made.

#### *General provisions*

### 3 Interpretation

(1) In these regulations, unless the context otherwise requires,—

**Act** means the COVID-19 Act 2020

**cargo vessel** means a commercial vessel that is carrying primarily cargo into or out of the Cook Islands

**commercial vessel** has the meaning given in section 2(1) of the Maritime Transport Act 2008

**Cook Islands** means the area covering the islands and territorial sea of the Cook Islands, and includes ports and internal waters

**crew**—

(a) means the persons employed or engaged in any capacity on board a vessel; and

(b) includes—

(i) a master; and

(ii) a person who is temporarily working on a ship; but

(c) does not include a person undertaking a necessary task

**enter the Cook Islands** has the meaning given in regulation 4

**exclusive economic zone** has the meaning given in section 4 of the Maritime Zones Act 2018

**foreign State vessel** means—

(a) a warship of any State other than New Zealand; and

(b) a ship owned or operated by any State other than the Cook Islands or New Zealand, if the ship is being operated for non-commercial purposes

**master** has the meaning given in section 2(1) of the Maritime Transport Act 2008

**owner** has the meaning given in section 2(1) of the Maritime Transport Act 2008

**person undertaking a necessary task**, in relation to a person who boards a ship (other than a crew member), means the following persons acting in the normal course of their work:

(a) a pilot, as that term is defined in section 2(1) of the Maritime Transport Act 2008;

(b) a Police officer;

(c) an employee of the Ministry of Transport acting under delegated authority under section 155 of the Maritime Transport Act 2008;

- (d) a Customs officer, as that term is defined in section 4(1) of the Customs Revenue and Border Protection Act 2012:
- (e) an office-holder as that term is defined in section 3(1) of the Public Health Act 2004, or a person acting under delegated authority under section 10 of that Act:
- (f) a health officer, as that term is defined in section 6 of the Act:
- (g) a biosecurity officer, as that term is defined in section 2 of the Biosecurity Act 2008:
- (h) an immigration officer, as that term is defined in section 2 of the Entry, Residence and Departure Act 1971-72:
- (i) a person helping with loading, unloading, or otherwise expediting the movement of freight by vessel or the essential business of a vessel, including (without limitation)—
  - (i) an agent:
  - (ii) a stevedore:
  - (iii) a foreman:
  - (iv) a member of port or portside staff:
  - (v) a provider of logistics or other cargo-related services:
- (j) a person helping with a task necessary for the safe operation and seaworthiness of a vessel, including (without limitation)—
  - (i) a commercial surveyor:
  - (ii) a flag State inspector:
  - (iii) a classification society representative:
  - (iv) a service engineer:
- (k) a medical practitioner, as that term is defined in section 3 of the Public Health Act 2004:
- (l) an emergency worker:
- (m) a person assisting with the provisioning or welfare of the vessel's crew, including (without limitation) a chaplain or seafarer welfare advocate

**port** has the meaning given in section 2(1) of the Ports Authority Act 1994-95

**Ports Authority** means the Ports Authority established under section 5 of the Ports Authority Act 1994-95

**quarantine and isolation requirements** means, in respect of a vessel or person on a vessel, requirements in respect of quarantine and isolation required by Cook Islands law as in force at the time at which the vessel entered the Cook Islands

**territorial sea** means the territorial sea of the Cook Islands described in section 8 of the Maritime Zones Act 2018

**vessel** has the meaning given in section 2(1) of the Maritime Transport Act 2008.

- (2) Any term or expression that is defined in the Act and used, but not defined, in these regulations has the same meaning as in the Act.

#### **4 Meaning of enter the Cook Islands**

- (1) In these regulations, **enter the Cook Islands** means, in relation to a vessel, to enter the Cook Islands whether lawfully or unlawfully and whether or not the vessel does any of the following:
- (a) lands, berths, moors, anchors, or stops at any place within the Cook Islands;
  - (b) hovers above any place in the Cook Islands;
  - (c) otherwise arrives at any place in the Cook Islands.
- (2) A vessel is not to be treated as entering the Cook Islands even though it leaves the territorial sea and re-enters it if the vessel—
- (a) travels from a place in the Cook Islands and returns to that place without leaving the exclusive economic zone; or
  - (b) travels directly from a place in the Cook Islands to another place in the Cook Islands.

#### *Restrictions on entering Cook Islands*

#### **5 Vessel not permitted to enter Cook Islands except in particular circumstances**

The owner and master of a vessel must not allow the vessel to enter the Cook Islands except—

- (a) if the entry of the vessel is allowed by an exemption granted by the Secretary of Transport under regulation 6; or
- (b) if an exception in regulation 11 applies to the vessel.

#### *Exemption by Secretary of Transport*

#### **6 Secretary of Transport may grant exemption to enter Cook Islands**

- (1) The Secretary of Transport may grant an exemption to allow a vessel described in subclause (2) to enter the Cook Islands and may impose conditions on the exemption that he or she considers necessary.
- (2) An exemption may be granted for the following vessels:
- (a) cargo vessels;
  - (b) foreign State vessels that meet Cook Islands immigration entry criteria and have been granted diplomatic clearance by the Cook Islands Government;
  - (c) research vessels that meet Cook Islands immigration entry criteria and have been granted a research permit by the Cook Islands Government to undertake research activities within the Cook Islands territorial sea or the exclusive economic zone.
- (3) An exemption may be granted only if the Secretary of Transport—
- (a) is satisfied that the proposed exemption does not undermine the purpose of the Act to implement measures to prevent, limit, or mitigate the spread of COVID-19 and its effects; and
  - (b) has consulted the Secretary of Health about the proposed exemption.
- (4) An exemption may authorise—
- (a) 1 or more vessels to enter the Cook Islands;

- (b) 1 or more entries by a vessel to the Cook Islands.
  - (5) An exemption must be in writing.
  - (6) This regulation is subject to regulation 7.
- 7 Restrictions on cargo vessels granted exemption**
- (1) The following restrictions apply if a cargo vessel is granted an exemption to enter the Cook Islands:
    - (a) the crew must remain on the vessel at all times and are not permitted to take shore leave;
    - (b) visitors are not permitted on the vessel, but this restriction does not apply to a person who is undertaking a necessary task.
  - (2) The restrictions in subclause (1) are in addition to any other restrictions under any law or that are imposed as a condition of the exemption.
  - (3) An approval for a crew member to leave a vessel may be granted by the Secretary of Transport if it is necessary to preserve a person's life, health, or safety in an emergency.
  - (4) Subclause (1)(a) and any conditions of an exemption do not apply to the extent of any approval granted under subclause (3).

*Owner and master must ensure compliance with restrictions and any conditions imposed*

- 8 Owner and master must ensure compliance with restrictions and any conditions of exemption**
- (1) The owner and master of a vessel that enters the Cook Islands under an exemption granted under regulation 6 must ensure that crew and visitors comply with—
    - (a) the restrictions in regulation 7(1), in addition to restrictions under any other law; and
    - (b) any conditions of the exemption.
  - (2) Subclause (1) does not apply to the extent of any approval granted under regulation 7(3)

*Restrictions on physical interaction and related measures*

- 9 Vessels based in Cook Islands must not physically interact with vessels that enter Cook Islands**
- (1) The owner and master of a vessel based in the Cook Islands (**vessel A**) must ensure that there is no physical interaction with a vessel that enters the Cook Islands after these regulations come into force (**vessel B**).
  - (2) Subclause (1) applies until vessel B completes applicable quarantine and isolation requirements.
  - (3) In this regulation,—
 

**physical interaction** means that persons on vessel A—

    - (a) board vessel B; or
    - (b) allow persons on vessel B to board vessel A; or

- (c) touch persons on vessel B; or
- (d) allow persons on vessel B to touch persons on vessel A; or
- (e) allow persons on vessel B to transfer an item to vessel A

**vessel based in the Cook Islands** means a vessel in the Cook Islands that—

- (a) has not entered the Cook Islands since the commencement of these regulations; or
  - (b) has entered the Cook Islands since the commencement of these regulations but has completed quarantine and isolation requirements.
- (4) This regulation does not apply to physical interaction by or with persons undertaking a necessary task.

#### **10 Obligations on Ports Authority**

- (1) The Ports Authority must implement measures to ensure that its staff do not physically interact with persons on board a vessel that enters the Cook Islands until applicable quarantine and isolation requirements are completed.
- (2) The required measures are prohibiting staff from doing the following things:
- (a) boarding the vessel; and
  - (b) touching persons on board the vessel; and
  - (c) receiving an item from the vessel.
- (3) The Ports Authority must also require its staff to take other protective measures against the spread of COVID-19 that are necessary in the circumstances, in addition to any health measures recommended by the Ministry of Health.
- (4) This regulation does not apply to physical interaction by or with persons undertaking a necessary task.

*When regulations do not apply*

#### **11 Regulations do not apply to vessels in particular circumstances**

In accordance with section 33(2) of the Act, these regulations do not apply—

- (a) to a vessel that is in distress; or
- (b) to a vessel that must enter the Cook Islands to preserve human life; or
- (c) to a foreign vessel that is exercising, in accordance with the United Nations Convention on the Law of the Sea, the right of—
  - (i) innocent passage through the territorial sea; or
  - (ii) transit passage through straits used for international navigation.

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 JJ Harold Browne  
 Clerk of the Executive Council

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 These regulations are administered by the Ministry of Health.

These regulations were made on the \_\_\_\_\_ day of \_\_\_\_\_ 2021.