

COVID-19 Maritime Industry Update 48

24 September 2020

This update is for the maritime industry and port supply chain



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1. Auckland at Alert Level 2, rest of New Zealand at Alert Level 1

The Government recently announced that Auckland would move to Alert Level 2 with no extra restrictions on Wednesday, 23 September 2020.

The rest of New Zealand moved to Alert Level 1 at 2359 hours on Monday, 21 September 2020.

You legally must wear a face covering when travelling into, from or through Auckland on public transport or aircraft.

The announcement and further information is on the official COVID-19 response website at

<https://covid19.govt.nz/updates-and-resources/latest-updates/new-zealand-will-move-to-alert-level-1-auckland-will-move-to-alert-level-2-with-no-extra-restrictions/>.

The Maritime Industry Update is issued weekly, usually on each Wednesday. However, publication days might change when there is a need to provide a quick update.

If you have any questions about updates, or suggestions for what you would like included, please contact Maritime NZ by emailing maritimeCSE@maritimenz.govt.nz.

2. New Zealand maritime border is closed to foreign yachts

Stakeholders representing foreign yachts and other small craft in the Pacific have written to the New Zealand Government asking for an exemption for 300-350 foreign vessels to enter New Zealand to avoid the Pacific cyclone season.

New Zealanders are still able to return home. New Zealand citizens, on either a New Zealand or foreign vessel, do not have to apply for an exemption. However, if any of the vessel's crew are foreign citizens, then the vessel must be approved to enter New Zealand through the exemption process.

The Ministry's decision is based on the maritime border order, [COVID-19 Public Health Response \(Maritime Border\) Order \(No 2\) 2020](#), which came into effect at 2359 hours on 6 September 2020 and is still in force.

To help protect New Zealand from COVID-19 the maritime border is closed to foreign vessels, including foreign yachts and other small craft. There are some specific exemptions for cargo ships and fishing vessels. The Director General of Health can also grant exemptions for humanitarian reasons on a case-by-case basis.

Cyclone season is variable but normally starts around the beginning of November and runs to April of the following year. However, there is no certainty that a cyclone will affect any particular region of the Pacific over the next cyclone season.

Therefore, cyclone season does not mean that every vessel in the Pacific is suddenly in imminent danger. Rather, it means that cyclones may form across the tropical areas of the Pacific, and islands and vessels may be in the path or affected by the cyclones that might form.

On that basis, when weighed against the public health risk and resource constraints, the Ministry does not consider cyclone season to be sufficient in itself to justify entry into New Zealand. New Zealand's position on this is consistent with that of other jurisdictions.

There is significant public health risk with the potential arrival of 300 – 350 foreign vessels from the Pacific. They would bring up to 1,000 overseas' people, many from areas of high COVID-19 risk.

New Zealand has limited available resources for testing, managed isolation and quarantine.

There is also limited availability of suitable berthage for securely and safely isolating and controlling incoming vessels.

Options remain available to foreign vessels, including setting sail for their home country rather than to New Zealand (eg United States registered or crewed yachts could set sail immediately for Hawaii) or finding safe anchorage in the Pacific. Vessels that choose to stay in the Pacific could still seek an exemption on humanitarian grounds if they found themselves in imminent threat due to a specific cyclone.

2. New Zealand maritime border is closed to foreign yachts (continued)

The bar to qualify for a humanitarian exemption is necessarily high, to avoid creating an unwanted 'back door' into New Zealand. Information on the process to for seeking an exemption can be found here:

<https://www.health.govt.nz/our-work/diseases-and-conditions/covid-19-novel-coronavirus/covid-19-information-specific-audiences/covid-19-resources-border-sector/covid-19-maritime-sector>.

Section 13 of the border order states that if a ship is in distress and/or it is necessary to preserve human life, then clauses 8 and 9(1) which state non-New Zealand citizens or foreign vessels are to be barred entry do not apply. In these circumstances, vessels will be allowed to enter New Zealand.

However, any deliberate attempt to contravene the order would be liable for prosecution and may result in a \$15,000 NZD fine, imprisonment of up to 12 months, or forfeiture of the vessel.

3. Answering your questions – email

There are a huge number of stakeholders in the maritime industry and ports' supply chain, and all of you are affected in different ways by COVID-19 and New Zealand's response to it.

To help answer your questions and share information across the sector *Maritime Industry Update* has included a new section of questions and answers at the back of this update. We have shared questions already raised with the relevant government agencies working on the all of government response.

If you have questions you would like answered, please email MNZCovid-19@maritimenz.govt.nz by 5pm, Friday each week.

Maritime NZ will share your questions with the relevant government agencies working on the all-of-government COVID-19 response and, where possible, will publish the answers in the next *Maritime Industry Update*.

If your questions are private, commercially sensitive or you do not wish to have them published for another reason, please let us know and we will respond back to you directly.

4. Maritime and port industry liaison – taking soundings

“Taking soundings” conversations continue with industry. Just because we may not have spoken to you recently, does not mean the conversations have ceased – we may be just talking to others.

We continue to be interested in how COVID-19 may be influencing your business so do not hesitate to get in contact.

Ports have adapted to the new normal of COVID-19 testing of border workers, and seem to be taking things into their stride. It is also encouraging to hear of strengthening relationships with local DHBs.

There may be the occasional hiccup but we appear to be on the same page – together, safeguarding our country and sustaining economic activity, doing the best we can.

Email MNZCovid-19@maritimenz.govt.nz

5. Key sources of information

The following links provide you with key sources of information.

- For all your questions, and to provide information and make suggestions – Maritime NZ
maritimeCSE@maritimenz.govt.nz
- Port and maritime guidelines and other information
www.maritimenz.govt.nz – click on the COVID-19 banner on the home page
- Official health advice, including PPE guidance – Ministry of Health
www.health.govt.nz/
- Up-to-date information across the transport sector (land, sea and air) – Ministry of Transport
www.transport.govt.nz/about/covid-19/
- New Zealand's campaign to stamp out COVID-19
www.covid19.govt.nz
- Information for businesses operating under alert levels
www.business.govt.nz/covid-19/operating-at-alert-levels/
- Wage Subsidy Scheme information
www.workandincome.govt.nz/covid-19/resurgence-wage-subsidy/index.html
- Managed Isolation and Quarantine
www.mig.govt.nz/

Stamp it out



Practise good hygiene →

Wash your hands with soap. Cough or sneeze into your elbow. Clean surfaces.



Keep track of where you've been →

If COVID-19 reappears, help our health services reach people quickly to stop any further spread.



Stay home if you're sick →

If you have cold or flu symptoms, you should stay home and call your doctor or Healthline.

6. Implementing COVID-19 testing requirements at New Zealand Maritime Ports: Questions and Answers

The following questions and answers (Qs and As) have been provided by the Ministry of

COVID-19



New Zealand Government

Health.

23 September 2020

The following Q and As respond to a number of commonly-asked questions relating to implementation of the requirements under the COVID-19 Public Health Response (COVID-19 Testing Order 2020) and its subsequent amendments. They are intended to elaborate on the guidance material previously provided to assist with the implementation of the testing requirements arising from these Orders and Maritime Border Order (No 2) 2020.

A summary of the various Orders specifying testing requirements at the maritime border is attached at Appendix 1.

If further clarification is required on any of these questions, or other implementation issues more widely, please refer questions to: COVID-19testing@health.govt.nz.

Who is responsible for ensuring compliance with the requirements for higher risk workers at maritime ports to be tested fortnightly?

Currently, responsibility under the testing orders to get tested sits with individual workers.

Employers have responsibilities under the Health and Safety at Work Act 2015 to ensure, so far as is reasonably practicable, both the health and safety of workers. Employers will therefore need to be actively taking steps to ensure that risks relating to COVID-19 are managed within their workplaces. Employers should ensure that workers are provided with information about the testing requirements and take steps to facilitate their access to testing.

Worker testing is one part of ensuring that workers are safe, but there are other steps (such as hygiene measures) that are also relevant to ensuring the safety of the workforce.

6. Implementing COVID-19 testing requirements at NZ Maritime Ports: Qs and As (continued)

Is there any expectation, or requirement that the employer should cover costs (for example, paying additional wages) for an employee to get tested if the employee is required to go in their own time, outside of working hours due to the worker working night shifts continuously?

This is a matter for individual employers, taking into account general employment, and health and safety responsibilities and the contract in place with the employee. Employers are encouraged to support their staff to be tested in light of the public health importance of testing.

What support are employers expected to give to staff who have difficulties accessing testing, in order to ensure they are able to have a test completed on time?

There are currently no specific requirements under the testing Orders for employers to provide particular types of support to assist staff access testing and complete tests on time. To meet their health and safety obligations they should be doing their best to ensure that staff are aware of the testing requirements and encourage them to take tests. They should work with District Health Boards (DHBs) to ensure that testing is available on-site during work hours, or that alternative options are available for those not able to access on-site testing (eg night shift workers) such as by referral to community testing centres.

What happens if higher risk workers at maritime ports do not get a test at the required intervals?

Currently the national effort to eliminate COVID-19 from New Zealand continues to require fortnightly testing of certain members of the community, including those who work in higher-risk occupations at the maritime border. The requirement for ongoing testing is mandatory unless a worker has a particular physical or other need that a suitably qualified health practitioner determines would make it inappropriate for them to be tested.

If the person is not exempted under the grounds noted above, and they have no reasonable excuse, then the person may be subject to enforcement action under the COVID-19 Act. This can include an infringement fee of \$300 or a fine imposed by a court of up to \$1,000.

However, the authorities are taking a graduated approach to enforcement, with a focus on education rather than penalties.

What happens if an employee has not been tested within the required fortnightly cycle? Are they unable to work until they get a test?

It is for the employer to manage the implications for the worker in terms of their being able to continue to work, taking into account general employment, and health and safety responsibilities and the contract in place with the employee.

The current testing method involving nasopharyngeal swabs are invasive and can be unpleasant. Are alternative testing methods available that may be better tolerated by those obliged to undergo regular testing?

We acknowledge the discomfort of a nasopharyngeal swab especially for those required to undergo frequent re-testing. However, for the present it remains the most reliable testing method. A protocol for using throat swabs in conjunction with less invasive nasal swabs for border testing is being proactively explored, and we hope to have this available as an option shortly. Saliva testing is also being explored but this is on a longer path.

6. Implementing COVID-19 testing requirements at NZ Maritime Ports: Qs and As (continued)

Border workers undergoing this testing play a vital role in keeping New Zealanders safe and limiting the impact of Covid-19 on our communities. Their efforts in responding to the testing requirements are very much appreciated.

What workers at the maritime border are classed as higher-risk, and therefore required to undergo fortnightly testing?

The most recent amendment to testing requirements (in Required Testing (Amendment Order (No 2) 2020), specifically requires ongoing fortnightly testing of groups of workers classed as “higher-risk”. These are workers who:

- worked as a pilot or a stevedore, carrying out work on or around a ship with a person on board who is required to be isolated or quarantined in accordance with a COVID-19 order; or
- board or have boarded a ship with a person on board who is required to be isolated or quarantined in accordance with a COVID-19 order; or
- are workers who transport persons to and from a ship with a person on board who is required to be isolated or quarantined in accordance with a COVID-19 order.

These categories are intended to identify all workers who in the course of their work potentially interact with crew arriving on ships from a location outside New Zealand.

Are workers at ports which only infrequently deal with ships arriving from overseas ports also required to be tested fortnightly?

The Order states that “an affected person who works at an affected port is not required to undergo testing and medical examination...if a ship has not arrived at the affected port from a location outside New Zealand for a period of at least 14 consecutive days”.

This addresses the situation at some ports where ships from overseas arrive infrequently.

After 14 continuous days have passed since the arrival of an affected ship, the port stops being an affected port and the requirement for workers at that port to receive routine tests is paused. The obligation to be retested on a fortnightly basis will recommence if and when there is a further arrival of an affected ship.

An affected ship means a ship with any person or persons on board who are required to be isolated or quarantined in accordance with a COVID-19 order. A ship can be an affected ship irrespective of how long the ship has been at sea.

Are the measures introduced under Maritime Border Order (No 2) to require crew wishing to disembark to meet specified low risk indicators, including returning a negative COVID-19 test, likely to result in crew members being able to take shore leave?

The new procedures under Maritime Border Order (No 2) introduce a mechanism to enable crew to take shore leave. If all crew meet the low risk indicators, including a negative COVID test they may be authorised by a Medical Officer of Health to disembark for shore leave.

6. Implementing COVID-19 testing requirements at NZ Maritime Ports: Qs and As (continued)

The public health requirements that must be met before crew can be authorised to take shore leave are necessarily robust, as they are for persons arriving at the air border. This is necessary to manage the risk of COVID-19 coming into NZ across the maritime border. It is acknowledged that in practice this means that not all crew wishing to take shore leave will be able to.

DHBs and testing providers are focused on managing the testing process as effectively as possible in order to facilitate shore leave for eligible crew. They, and the testing teams at ports, are working particularly hard to arrange testing, and turn around results in quick time, to accommodate as far as possible ship's arrival times and short stays at ports.

Are employers of “higher-risk” port workers required to provide the names of staff who are subject to mandatory testing to the DHBs and PHUs managing the testing process, so they can fulfil the Ministry of Health’s reporting requirements? Under which legal framework can this data be requested?

DHBs have been working cooperatively with companies and border agencies employing workers at ports to identify as accurately as possible the numbers of those working in each of the “higher- risk” categories, without seeking details which would identify the workers concerned. This data provides DHBs and PHUs an indicative target against which to measure that testing requirements are being met.

Wider privacy issues are still being worked through, and further advice will be provided.

Are new crew members arriving on a ship, or crew members departing a ship, as a result of a crew change required to be tested for COVID-19?

Asymptomatic arriving crew who travel directly from the airport to a ship which will be leaving New Zealand waters are not required to be tested, as long as the ship is departing "as soon as is reasonably practical". If this is not the case the arriving crew would need to go into an isolation facility for 14 days or until the ship departs, whichever happens sooner.

Similarly, crew disembarking to go to another ship or to fly out of New Zealand are not required to be tested, as long as they are disembarking to leave New Zealand. If the international flight does not depart the same day that the crew member wishes to board or the other ship does not depart as soon as reasonably practicable, the departing crew would need to go into an isolation facility for 14 days or until the international flight or other ship departs, whichever happens sooner.

Is it the case that new crew arriving on a ship for a crew change re-set the isolation timeframe, which means that the 14 days starts again for everyone on board?

Yes, once the inbound crew have arrived and boarded their ship, the entire ship and its crew must re-start the 14-day isolation and quarantine period. Therefore, shore leave will not be able to be taken during this time.

However, any eligible crew members who have been authorised to disembark for shore leave (having returned a negative COVID-19 test and met other low risk indicators) could take shore leave as long as they had disembarked for this purpose before the new inbound crew arrive to join the ship, and as long as they had not come into contact with the inbound crew in the process of disembarking.

6. Implementing COVID-19 testing requirements at NZ Maritime Ports: Qs and As (continued)

Appendix 1: Summary of Orders requiring testing at the maritime border

1. (COVID-19 Testing) Order 2020: entry into force 11.59 pm 14 August 2020:
 - Required mandatory testing of border workers at Ports of Auckland and Tauranga.
 - Border officials and port workers who worked at these ports since midnight 21 July were required to be tested between midnight 14 August and midnight 17 August.
2. (COVID-19 Testing) Amendment Order 2020: entry into force at 11.59 pm on 17 August 2020:
 - Extended the time frame for the testing required of workers at the Ports of Auckland and Tauranga until 11.59 pm on 20 August.
 - Narrowed the category of workers required to be tested at these ports to those in higher-risk occupations (as opposed to all workers):
 - pilots and stevedores carrying out work on or around an affected ship
 - symptomatic workers at these Ports
 - other workers who board or have boarded affected ships at these ports since 11.59 pm on 21 July.
3. Required Testing Order 2020: entry into force 11.59 pm 29 August:
 - Required those higher-risk workers who worked at the Ports of Auckland and Tauranga on or after 11.59 pm on 25 August to be tested or re-tested by 11.59 pm on 6 September.
 - In most cases this would involve re-testing of those workers who were required to have been tested between 14 and 20 August.
 - If these workers had already been tested between 11.59 pm on 14 August and 11.59 pm on 20 August (ie the period covered by the first two mandatory Orders) they would need to be re-tested.
 - If these workers had already been tested or re-tested in the “voluntary” period between 11.59 pm on 25 August and 11.59 pm on 29 August (ie the period before the current mandatory Order came into effect) they would not need to be re-tested.
4. Required Testing Amendment Order 2020: entry into force 11.59 pm on 6 September:
 - Required higher-risk workers who worked at the Ports of Auckland and Tauranga after 11.59 pm on 6 September to be re-tested every 14 days until further notice.
 - Changed the categories of higher-risk worker covered by the Order:
 - pilots and stevedores carrying out work on or around an affected ship
 - workers who board or have boarded affected ships at these ports since 11.59 pm on 21 July.
 - workers who transport persons to and from an affected ship.

6. Implementing COVID-19 testing requirements at NZ Maritime Ports: Qs and As (continued)

5. Required Testing (Amendment Order (No 2) 2020: entry into force 11.59 pm on 16 September:
 - Extended the requirements for ongoing mandatory fortnightly testing of workers in the higher-risk category described above to those who work at other maritime ports outside of the Ports of Auckland and Tauranga, which receive vessels from outside of New Zealand.
 - A person in the higher-risk group who works at an affected port is not required to be tested if the affected port has not, for a period of at least 14 consecutive days, served a ship arriving from a location outside New Zealand. (This means that higher-risk workers at ports that infrequently interact with crew on a ship arriving from a location outside New Zealand, are only required to be tested within a fortnight of every arrival of such a ship at the port.)
 - This amended Order introduced phase 2 of the ongoing Required Testing plan.
6. Maritime Border Order (No 2) 2020: entry into force 11.59 pm on 6 September:
 - Updated Maritime Border Order 202.
 - Amongst other provisions to improve maritime border controls, Maritime Border Order No 2 introduced requirements for mandatory testing of crew members wishing to disembark into New Zealand, temporarily (eg for shore leave) or permanently (eg New Zealanders returning home).
 - Maritime Border Order No 2 requires that:
 - Where one or more people wish to disembark into New Zealand and are eligible to do so, either temporarily for shore leave or permanently to enter New Zealand, a Medical Officer of Health or Health Protection Officer must be satisfied that the whole crew of the ship on which the person arrived:
 - has been in isolation or quarantine for at least 14 days on the ship on which they arrived; and
 - has been symptom free throughout that 14 days; and
 - has met the low risk indicators.
 - The disembarking person must also be authorised to disembark by a Medical Officer of Health or Health Protection Officer.
 - Maritime Border Order No 2 thereby introduced procedures for testing crew members to enable them to disembark temporarily (including for shore leave), or permanently, into New Zealand (New Zealand crew returning home), after completing isolation and quarantine requirements.
 - Before this, crew members on ships arriving in New Zealand were able to disembark only in certain exceptional circumstances.