

[Legal Notice No. 50]

**EMERGENCY POWERS ACT
(CAP. 11)**

EMERGENCY POWERS (COVID-19) (NO.2) REGULATIONS 2020

**EMERGENCY POWERS (COVID-19) (RESTRICTION OF MOVEMENT
OF FOREIGN VESSELS) ORDER 2020**

I, **Hon. Manasseh Sogavare**, Prime Minister, under regulation 13 of the *Emergency Powers (COVID-19) (No.2) Regulations 2020* (Legal Notice No. 47 of 2020), make the following Order:

1 Citation

This Order may be cited as the *Emergency Powers (COVID-19) (Restriction of Movement of Foreign Vessels) Order 2020*.

2 Commencement

This Order commences on the date it is published in the *Gazette*.

3 Definitions

In this Order:

“*agent*” has the same meaning it has in section 2(1) of the *Customs and Excise Act (Cap.121)*;

“*application*” means an application for an exemption made under paragraph 7;

“*authorised officer*”: means only:

- (a) a medical officer as defined in section 16 of the *Interpretation and General Provisions Act* (Cap. 85); or

- (b) a nurse as defined in section 3 of the *Nursing Council Act* (Cap.104);
or
- (c) a health worker as defined in section 2 of the *Health Workers Act* (Cap.101);

“Committee”: means the Vessel Exemption Committee established under paragraph 10;

“Comptroller”: has the same meaning it has in section 2(1) of the Customs and Excise Act (Cap. 121);

“crew member”: in relation to a vessel, means:

- (a) the person in command or charge of the vessel; or
- (b) any other person on board the vessel that is employed or engaged in any capacity relating to the operations of the vessel;

“foreign fishing vessel”: has the same meaning it has in section 2(1) of the *Fisheries Management Act 2015*;

“foreign vessel”:

- (a) means a vessel that is not registered in Solomon Islands or is not entitled to fly the Solomon Islands flag; and
- (b) includes:
 - (i) a logging vessel; and
 - (ii) a vessel that transports cargo, oil or mineral ore; and
- (c) does not include:
 - (i) a foreign fishing vessel; and
 - (ii) a vessel to which the Emergency Powers (COVID-19) (*Restriction of Movement of Cruise Ships and Yachts*) Order 2020 (*Legal Notice No. 32 of 2020*) applies;

“isolated”: in relation to a foreign vessel or a foreign fishing vessel, means:

- (a) being underway at sea or being at anchor in the Solomon Islands;
and
- (b) separated from physical contact with:
 - (i) another vessel; and
 - (ii) any person who is not on board the foreign vessel or foreign fishing vessel;

“person on board a vessel”: means

- (a) a crew member; or
- (b) any other person on board the vessel;

“Solomon Islands port” means”:

- (a) a port declared under section 5 of the Ports Act (Cap.161); or
- (b) the port of Tulagi in Central Province;

“Solomon Islands waters”: has the same meaning it has in section 16(1) of the *Interpretation and General Provisions Act* (Cap.85);

“sufferance wharf”: has the same meaning it has in section 2(1) of the *Customs and Excise Act* (Cap. 121);

“tier 1 country” means any of the following:

- (a) Papua New Guinea;
- (b) Fiji;
- (c) New Caledonia;
- (d) Vanuatu;
- (e) Tonga;
- (f) Nauru;
- (g) Kiribati;
- (h) Tuvalu;

“tier 2 country” means any of the following:

- (a) Australia;
- (b) New Zealand;
- (c) South Korea;

“tier 3 country or territory” means any of the following:

- (a) China;
- (b) Hong Kong (SAR);
- (c) Macau (SAR);
- (d) Chinese Taipei;
- (e) Japan;
- (f) Singapore;
- (g) Malaysia;
- (h) Thailand;
- (i) Indonesia;
- (j) Philippines;
- (k) Italy;
- (l) United Kingdom;
- (m) United States of America;
- (n) Spain.

4 Measures for foreign vessels;

- (a) must not enter a Solomon Islands port or dock at a sufferance wharf in Solomon Islands unless it has been isolated;
 - (i) if the vessel’s last port of call before entering Solomon Islands waters was in a tier 1 country, for the 5 days immediately before entering its Solomon Islands port of entry; or
 - (ii) if the vessel’s last port of call before entering Solomon waters was in a tier 2 country, for the 9 days immediately before entering its Solomon Islands port of entry; or
 - (iii) if the vessel’s last port of call before entering Solomon Islands waters was in a tier 3 country or territory, for the 14 days immediately before entering its Solomon Islands port of entry; or

- (iv) if the vessel's last port of call before entering Solomon Islands waters was in any other country, for the 14 days immediately before entering its Solomon Islands port of entry; and
- (b) before entering Solomon Islands waters, must provide the following to the Comptroller through its agent:
- (i) the maritime health declaration card for the vessel;
 - (ii) a list of all the persons on board the vessel;
 - (iii) a list of the ports visited in the 21 day period immediately before the vessel enters Solomon Islands waters and the dates and times when the vessel visited the ports;
 - (iv) a list of the Solomon Islands ports and sufferance wharves in Solomon Islands the vessel will visit after being given clearance under section 150 of the Customs and Excise Act (Cap. 121) and the dates on which the vessel will dock at the ports or sufferance wharves;
 - (v) a list of the persons who have disembarked from or embarked onto the vessel in the 21 day period immediately before the vessel enters the Solomon Islands waters;
 - (vi) details of the physical contact made with other vessels in the 21 day period immediately before the vessel enters Solomon Islands waters;
 - (vii) International Maritime Organization crew list for the vessel;
 - (viii) the details of the vessel, including the vessel type, country of registration;
 - (ix) the biosecurity arrival declaration for the vessel;
 - (x) the ship masters or pilot bond and guarantee for the vessel;
 - (xi) the incoming conveyance biosecurity certificate for the vessel;
 - (xii) the ship sanitation control certificate for the vessel; and

- (c) must not enter the Solomon Islands port of entry unless the foreign vessel complies with subparagraph (a) and, after so complying, an authorised officer:
 - (i) boards the vessel; and
 - (ii) examines each person on board the vessel; and
 - (iii) certifies that each person on board the vessel has no symptoms of COVID-19.
- (1) The foreign vessel must enter the Solomon Islands port of entry as soon as practicable after complying with subparagraph (1).
- (2) This paragraph applies in addition to, and does not operate to exempt or exclude a foreign vessel from complying with, the lawful requirements and procedures of the Solomon Islands Ports Authority, a Ministry and other government authority for clearance of the vessel for entering or departing from Solomon Islands.

5 Measures for foreign vessels

- (1) A foreign fishing vessel:
 - (a) must not enter a Solomon Islands port unless it has been isolated for the 14 days immediately before entering its Solomon Islands port of entry; and
 - (b) 48 hours before entering the port of entry, must provide the following to the Director of Fisheries through its agent:
 - (i) a port entry application, complying with section 87(1) of the *Fisheries Management Act 2015*;
 - (ii) the maritime health declaration card for the vessel;
 - (iii) International Maritime Organization crew list for the vessel;
 - (iv) a list of all the ports the vessel visited in the 21 day period before the vessel enters Solomon Islands waters and the dates and times when the vessel visited the ports;

- (v) the vessel's voyage memorandum, which must include details of the physical contact made with other vessels in the 21 day period immediately before the vessel enters Solomon Islands waters; and
- (c) must not enter the Solomon Islands port of entry unless the foreign fishing vessel complies with subparagraph (a) and, after so complying, an authorised officer;
 - (i) boards the vessel; and
 - (ii) examines each person on board the vessel; and
 - (iii) certifies that each person on board the vessel member has no symptoms of COVID-19.
- (2) The foreign fishing vessel must enter the Solomon Islands port as soon as practicable after complying with subparagraph (1).
- (3) This paragraph applies in addition to, and does not operate to exempt or exclude a foreign fishing vessel from complying with, the lawful requirements and procedures of the Solomon Islands Ports Authority, the Comptroller, a Ministry and other government authority for clearance of the vessel for entering or departing from Solomon Islands.

6 Measures for crew on board a vessel

A crew member on board a foreign vessel or foreign fishing vessel must not disembark from the vessel.

7 Procedures and measures for applying for exemption from requirement to be isolated.

- (1) A foreign vessel or a foreign fishing vessel may apply to the Committee for an exemption from the requirement to isolate under paragraph 4(1)(a) or 5(1)(a).

- (2) The application must:
- (a) be made in writing by the vessel's agent; and
 - (b) contain the following:
 - (i) the reasons for the exempting;
 - (ii) the route the vessel travelled in the 21 day period immediately before the vessel enters Solomon Islands waters;
 - (iii) a list of the ports the vessel visited in the 21 day period before the vessel enters Solomon Islands waters and the dates and times when the vessel visited the ports;
 - (iv) a list of the Solomon Islands ports and sufferance wharves in Solomon Islands the vessel will visit after being given clearance authorising the vessel's entry into Solomon Islands and the dates when the vessel will dock at the ports or sufferance wharves;
 - (v) a health clearance certification given by a competent medical authority for each person on board the vessel at the vessel's last port of call before entering Solomon Island waters;
 - (vi) the names and passport details of each person on board the vessel;
 - (vii) the travel and medical history of each person on board the vessel for the 21 day period immediately before the vessel enters Solomon Islands waters;
 - (viii) details of each person who disembarked from or embarked onto the vessel during the 21 day period immediately before the vessel enters Solomon Islands waters;
 - (ix) the cargo manifest for cargo to be unloaded in Solomon Islands.

- (3) The application to exempt a foreign vessel must be received by the Comptroller:
 - (a) if the vessel's last port of call before entering Solomon Islands water was in a tier 1 country, 5 days before entering Solomon Islands water; or
 - (b) if the vessel's last port of call before entering Solomon Islands waters was in a tier 2 country, 9 days before entering Solomon waters; or
 - (c) if the vessel's last port of call before entering Solomon Islands waters was in a tier 3 country or territory, 14 days before entering Solomon Islands waters; or
 - (d) if the vessel's last port of call before entering Solomon Islands waters was in any other country, 14 days before entering Solomon Islands waters.
- (4) The application to exempt a foreign fishing vessel must be received by the Comptroller 14 days before the vessel enters Solomon Islands waters.
- (5) The Comptroller must give the application to the Committee as soon as practicable after receiving the application.

8 Committee's consideration and determination of application

- (1) In considering an application, the Committee:
 - (a) must not exempt:
 - (i) a foreign vessel that has been in a port of call in a tier 1 country during the 21 day period immediately before the vessel enters Solomon Islands waters, unless the vessel will have been isolated for at least 5 days immediately before entering its Solomon Islands port of entry; or
 - (ii) a foreign vessel that has been in a port of call in a tier 2 country during the 21 day period immediately before the vessel enters Solomon Islands waters, unless the vessel will have been isolated for at least 9 days immediately before entering its Solomon Islands port of entry; or

- (iii) a foreign vessel that has been in a port of call in a tier 3 country or territory during the 21 day period immediately before the vessel enters Solomon Islands waters, unless the vessel will have been isolated for at least 14 days immediately before entering its Solomon Islands port of entry; or
 - (iv) a foreign vessel that has been in a port of call in any other country during the 21 day period immediately before the vessel enters Solomon Islands waters, unless the vessel will have been isolated for at least 14 days immediately before entering its Solomon Islands port of entry; and
 - (b) must decide the number of days for which the vessel is exempted from the requirement to be isolated; and
 - (c) must decide if the exemption will be subject to conditions for preventing the transmission of COVID-19; and
 - (d) must act as fairly and expeditiously as is reasonable practicable for giving proper consideration to the application.
- (2) The Committee determines the application by deciding to exempt the foreign vessel or foreign fishing vessel from compliance with paragraph (4)(1)(a) or 5(1)(a) or 5(1)(a) or to refuse to exempt the vessel.
- (3) If the Committee decides to exempt the foreign vessel or foreign fishing vessel, the Committee's decision must:
- (a) specify the number of days for which the vessel is exempted from compliance with the requirement to be isolated; and
 - (b) specify the conditions of the exemption (if any).
- (4) On determining the application, the Committee must, as soon as practicable, communicate its decision in writing (including by electronic transmission) to the Comptroller;
- (5) The Committee's decision to exempt or to refuse to exempt a vessel is final, and no rule of law applies to give a person affected by the decision a right of appeal against the decision or the right to apply for a review of the decision.

9 Comptroller responsible for implementation of decision to exempt or not exempt

On receiving the Committee's decision to exempt or to refuse to exempt a vessel, the Comptroller must:

- (a) as soon as practicable after receiving the Committee's decision communicate (including by electronic transmission) the decision to:
 - (i) the vessel's agent; and
 - (ii) the Solomon Islands Port Authority; and
 - (iii) the Solomon Islands Maritime Authority; and
 - (iv) any other person or authority the Comptroller considers appropriate to be notified; and
- (b) give the vessel the subject of the decision clearance to enter Solomon Islands on a day that enables the vessel to:
 - (i) if the Committee has decided to exempt the vessel, enter Solomon Islands in accordance with the exemption; or
 - (ii) if the Committee has decided to refuse to exempt the vessel, enter Solomon Islands in accordance with paragraph 4(1)(a) or 5(1)(a).

10 Vessel Exemption Committee

- (1) The Vessel Exemption Committee is established.
- (2) The function of the Committee is to receive, consider and determine applications for exemption of a foreign vessel from the requirement to be isolated under paragraph 4(1)(a) or 5(1)(a), as the case requires.
- (3) The members of the Committee are:
 - (a) the Secretary to Prime Minister; and
 - (b) the Permanent Secretary of the Ministry of Finance and Treasury; and

- (c) the Permanent Secretary of the Ministry of Health and Medical Services; and
 - (d) the Permanent Secretary of the Ministry of Commerce, Industry, Labour and Immigration; and
 - (e) the Permanent Secretary of the Ministry of Agriculture and Livestock Development; and
 - (f) The Permanent Secretary of the Ministry of Infrastructure Development; and
 - (g) the Permanent Secretary of the Ministry of Fisheries and Marine Resources; and
 - (h) the Director of Immigration; and
 - (i) the Director of Biosecurity; and
 - (j) the Director of Fisheries; and
 - (k) the Chief Executive Officer of the Solomon Islands Chamber of Commerce and Industry.
- (4) The Secretary to Prime Minister is the Chairperson of the Committee.
- (5) The Committee must:
- (a) subject to this Order, determine its procedure; and
 - (b) keep a record of all its proceedings and decisions.

MADE on this twelfth day of May, 2020.

HON. MANASSEH SOGAVARE
PRIME MINISTER