

# Interim Order No. 2 Restricting Pleasure Craft Navigation Due to COVID-19

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From: Transport Canada

Whereas the Minister of Transport believes that the annexed *Interim Order No. 2 Restricting Pleasure Craft Navigation Due to COVID-19* is required to deal with a direct or indirect risk to marine safety or to the marine environment;

And whereas the provisions of the annexed Interim Order may be contained in a regulation made pursuant to subsection 120(1) <sup>a</sup> and paragraphs 136(1)(f) <sup>b</sup> and (h) <sup>b</sup> and 244(f) <sup>c</sup> of the *Canada Shipping Act, 2001* <sup>d</sup>;

Therefore, the Minister of Transport, pursuant to subsection 10.1 <sup>e</sup> of the *Canada Shipping Act, 2001* <sup>d</sup>, makes the annexed *Interim Order No. 2 Restricting Pleasure Craft Navigation Due to COVID-19*.

Ottawa, October 30, 2020

Marc Garneau

Minister of Transport

## Interim Order No. 2 Restricting Pleasure Craft Navigation Due to COVID-19

### Definitions

1 The following definitions apply in this Interim Order.

**arctic waters** means

(a) the Canadian waters located north of the 60th parallel of north latitude; and

(b) the territorial sea of Canada in the vicinity of Nunatsiavut, Nunavik and the Labrador coast. (*eaux arctiques*)

**COVID-19** means the coronavirus disease 2019. (*COVID-19*)

**foreign pleasure craft** means a pleasure craft in respect of which a registration number, licence or other document has been issued, under the laws of a foreign state, granting it the right to fly the flag of that state, or that otherwise has the right to fly the flag of a foreign state. (*embarcation de plaisance étrangère*)

**Minister** means the Minister of Transport. (*ministre*)

## Overview

### Purpose

**2** This Interim Order temporarily restricts the operation of pleasure craft in certain arctic waters to promote the safe navigation of vessels by ensuring that limited marine assets and personnel are available for critical marine resupply operations in the Arctic during the COVID-19 pandemic. It also protects the public interest by protecting health care infrastructure in the Arctic.

## Prohibition

### Prohibition – general

**3 (1)** Beginning on November 1, 2020, a person, including the owner of a pleasure craft, must not operate a pleasure craft in arctic waters, other than rivers and lakes.

## Prohibition – owner

**(2)** Beginning on November 1, 2020, the owner of a pleasure craft must not allow another person to operate the pleasure craft in arctic waters, other than rivers and lakes.

## Exceptions – general

**(3)** Subsection (1) does not apply to a person that is

**(a)** in distress or providing assistance to another vessel or person in distress;

**(b)** forced to operate the pleasure craft to avoid immediate danger;

**(c)** operating in the territorial sea of Canada a foreign pleasure craft that is exercising the right of innocent passage in accordance with international law and article 19 of the *United Nations Convention on the Law of the Sea*, done at Montego Bay on 10 December 1982;

**(d)** using the pleasure craft to give themselves or another person access to the following, if using a pleasure craft is the most practical means of doing so:

**(i)** their dwelling-house or the place that serves this purpose, or their place of employment,

**(ii)** essential goods and services, including

**(A)** goods or services directly related to the response to COVID-19, including medical equipment, testing and laboratory services,

**(B)** essential health services, including primary health care services and pharmacies, and

**(C)** food, clean water, pharmaceuticals and fuel, and

**(iii)** services that are declared to be essential services by the Government of Canada, a provincial government, a local authority or a government, council or other entity authorized to act on behalf of an Indigenous group, community or people;

**(e)** using a pleasure craft for subsistence fishing, harvesting or hunting;  
or

**(f)** a member of an Indigenous group, community or people that holds rights recognized and affirmed by section 35 of the *Constitution Act, 1982* and who is using a pleasure craft to exercise those rights.

### **Exceptions – owner**

**(4)** Subsection (2) does not apply to an owner who allows another person to operate a pleasure craft in any of the situations set out in subsection (3).

### **Non-Application**

#### **Use by local communities**

**4** This Interim Order does not apply in respect of pleasure craft used by local communities.

### **Foreign Pleasure Craft**

#### **Obligation to give notice**

**5 (1)** At least 60 days before the expected date of arrival in arctic waters, other than lakes and rivers, of a foreign pleasure craft described in paragraph 3(3)(c), the operator must give written notice to the Minister of the arrival of the pleasure craft in those waters.

### **Conditions**

**(2)** The Minister may impose any conditions that the Minister considers appropriate in respect of a foreign pleasure craft for which notice has been given.

### **Responsibility of operator**

**(3)** The operator must ensure that all persons on board the foreign pleasure craft comply with any conditions that the Minister imposes.

## **Ministerial Exemptions**

### **International obligations and external affairs of Canada**

**6 (1)** The Minister may, in writing, exempt a person from the application of any of the prohibitions set out in this Interim Order if

**(a)** after consulting with the Minister of Foreign Affairs, the Minister determines that the exemption is necessary to ensure

**(i)** that Canada meets its international obligations, or

**(ii)** the proper conduct of the external affairs of Canada; and

**(b)** the Minister determines that public health and safety and the protection of the marine environment will, to the extent possible, be maintained.

### **Recreational boaters**

**(2)** The Minister may, in writing, exempt a person from the application of any of the prohibitions set out in this Interim Order if

**(a)** after consulting with the government of any affected province or territory, the Minister determines that the exemption is necessary to allow for the viable, effective and economical use of Canadian waters by recreational boaters; and

**(b)** the Minister determines that public health and safety and the protection of the marine environment will, to the extent possible, be maintained.

### **Application for exemption**

**(3)** A person may apply to the Minister for an exemption under subsection (1) or (2).

### **Conditions of exemption**

**(4)** An exemption is subject to any conditions that the Minister considers appropriate.

### **Amending conditions**

**(5)** The Minister may add, amend or remove conditions if the Minister determines that it is necessary to do so for public health or safety or the protection of the marine environment.

### **Exemption on board**

**(6)** A person to whom an exemption has been granted must keep that exemption on board a pleasure craft while they are using it.

### **Suspension or revocation**

**(7)** The Minister may suspend or revoke an exemption if

**(a)** the person to whom it was granted knowingly provided false or misleading information to obtain it;

**(b)** a condition to which the exemption was subject is not complied with, and the non-compliance constitutes a risk to public health or safety or to the marine environment; or

**(c)** the Minister determines that the suspension or revocation is necessary for public health or safety or the protection of the marine environment.

## **Notice**

**(8)** If the Minister suspends or revokes an exemption, the Minister must give notice in writing to the person to whom the exemption had been granted.

## **Publication – Canada Gazette**

**(9)** Notice of every exemption granted under subsection (1) or (2) must be published in the Canada Gazette.

## **Enforcement**

### **Persons ensuring compliance**

**7 (1)** The following persons are authorized to ensure compliance with this Interim Order:

- (a)** a marine safety inspector;
- (b)** a member of the Royal Canadian Mounted Police;
- (c)** a member of any harbour or river police force; and
- (d)** a member of any provincial, county or municipal police force.

### **Powers and duties**

**(2)** An authorized person may

- (a)** prohibit the movement of any pleasure craft or direct it to be moved;
- (b)** stop and board any pleasure craft at any reasonable time and

**(i)** direct any person to answer reasonable questions and provide reasonable assistance, and

**(ii)** require any person to provide, for examination, any document that the person is required to have in their possession or that is required to be kept on board; and

**(c)** verify by any means that the requirements of this Interim Order are met.

## **Obligation to comply**

**8** A person must comply with any prohibition, direction or requirement referred to in subsection 7(2).

## **Violations**

### **Violations**

**9 (1)** A person that contravenes this Interim Order commits a violation and is liable to a penalty in the amount of

**(a)** in the case of an individual, \$5,000; and

**(b)** in the case of any other person, \$25,000.

### **Continued violation**

**(2)** A violation referred to in subsection (1) constitutes a separate violation for each day on which it is continued.

### **Cessation of Effect**

**10** This Interim Order ceases to have effect on February 28, 2021.

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## **Footnotes**

- a** S.C. 2018, c. 27, s. 694
  - b** S.C. 2005, c. 29, s. 18
  - c** S.C. 2014, c. 29, s. 75(1)
  - d** S.C. 2001, c. 26
  - e** S.C. 2018, c. 27, s. 690
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### **i** Did you find this information helpful?

**i** Transport Canada is closely monitoring the COVID-19 situation. In response, we have issued some **transportation-related measures and guidance**. Please check if any of these measures apply to you.

You may experience longer than usual wait times or partial service interruptions. If you cannot get through, please **contact us by email**.

For information on COVID-19 updates, please visit **Canada.ca/coronavirus**.

### **Date modified:**

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