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New South Wales

Public Health (COVID-19 Border Control) Order 2020

under the

Public Health Act 2010

I, Brad Hazzard, the Minister for Health and Medical Research, under section 7 of the *Public Health Act 2010*, make the following Order.

Dated 7th July 2020.

BRAD HAZZARD, MP
Minister for Health and Medical Research

Explanatory note

The object of this Order is to restrict entry into New South Wales of persons who have been in Victoria within the previous 14 days before entry.

Section 10 of the *Public Health Act 2010* creates an offence if an individual fails to comply with a direction with a maximum penalty of imprisonment for 6 months or a fine of up to \$11,000 (or both) plus a further \$5,500 fine each day the offence continues. Corporations that fail to comply with a direction are liable to a fine of \$55,000 and \$27,500 each day the offence continues. The *Public Health Regulation 2012* also enables authorised officers to issue penalty notices for offences against clause 6 by individuals for an amount of \$4,000 and \$1,000 in other cases.

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Public Health (COVID-19 Border Control) Order 2020

under the

Public Health Act 2010

Part 1 Preliminary

1 Name of Order

This Order is the *Public Health (COVID-19 Border Control) Order 2020*.

2 Commencement

This Order commences at the beginning of 8 July 2020.

Note. Section 7 of the Act provides for this Order to expire at the end of 90 days after it was made unless it is earlier revoked.

3 Definitions

(1) In this Order—

affected person means a person who has been in Victoria within the previous 14 days.

authorised to enter New South Wales—see clause 5.

border means the border between New South Wales and Victoria.

Border community means a community that a reasonable person would consider to be a community located at or near the border.

Border community resident means a person who—

- (a) is usually a resident of a Border community, and
- (b) has reasonable cause to travel between New South Wales and Victoria in the ordinary course of their work, education or daily life, and
- (c) crosses the border, and
- (d) if the person is a Victorian resident—does not stay in New South Wales for longer than reasonably necessary for work, education or to obtain goods or services.

critical services includes the following services—

- (a) the movement of freight or persons on a commercial basis,
- (b) the maintenance and repair of critical infrastructure,
- (c) medical or hospital care,
- (d) law enforcement,
- (e) Commonwealth defence and security services,
- (f) mining, agriculture, construction, energy or manufacturing.

enforcement officer means any of the following—

- (a) a police officer,

- (b) a member of the NSW Health Service who is in a class approved by the Chief Health Officer for the purposes of this Order,
- (c) a member of the Public Service who is in a class approved by the Chief Health Officer for the purposes of this Order.

entry permit means a permit issued by or on behalf of the Government of New South Wales for the purposes of this Order (whether issued in paper or electronic form).

interstate resident means a person whose usual place of residence is in a State other than New South Wales or a Territory.

New South Wales means the geographic area of New South Wales.

NSW Health Self-Isolation Guidelines has the same meaning as in the *Public Health (COVID-19 Self-Isolation) Order (No 2) 2020*.

NSW resident means a person whose usual place of residence is New South Wales.

overnight rest stop means a place where a person can rest or sleep before undertaking onward travel.

relevant education visitor means a person ordinarily resident of Victoria who is—

- (a) a student at a boarding school or university entering New South Wales for the purposes of receiving instruction, or
- (b) a parent or guardian accompanying a student referred to in paragraph (a) if the student is under 18 years of age, or
- (c) a staff member at a boarding school or university entering New South Wales for the purpose of working at the school.

the Act means the *Public Health Act 2010*.

Victoria means the geographical area of the State of Victoria.

Victorian resident means a person whose usual place of residence is Victoria.

Note. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Order.

- (2) Notes included in this Order do not form part of this Order.

4 Grounds for concluding that there is a risk to public health

The basis for concluding that a situation has arisen that is, or is likely to be, a risk to public health is as follows—

- (a) public health authorities both internationally and in Australia have been monitoring and responding to outbreaks of COVID-19, also known as Novel Coronavirus 2019,
- (b) COVID-19 is a potentially fatal condition and is also highly contagious,
- (c) a number of cases of individuals with COVID-19 have now been confirmed in New South Wales, as well as other Australian jurisdictions,
- (d) recent cases of unexpected community transmission of COVID-19 in Victoria, with restrictions on the movement of people being put in place in certain hotspot areas,
- (e) the Victorian Government and New South Wales Government have agreed that the border should, subject to exceptions determined by the Government of New South Wales, be closed until community transmission of COVID-19 in Victoria is contained.

Part 2 Directions concerning border and entry

5 Direction of Minister not to enter New South Wales

- (1) The Minister directs that an affected person must not enter New South Wales unless the person is authorised to enter New South Wales.
- (2) For the purposes of this Order, an authorised person is *authorised to enter New South Wales* if—
 - (a) the person belongs to a class of persons specified in Column 1 of Schedule 1 (the *relevant class*), and
 - (b) the person holds a current entry permit (if required for that relevant class in Column 2 of Schedule 1), and
 - (c) the person complies with the conditions specified for that relevant class in Column 3 of Schedule 1 (the *relevant conditions*).
- (3) The Minister also directs that an affected person who is authorised to enter New South Wales must comply with all applicable relevant conditions while in New South Wales.
- (4) A person accompanying an affected person who is authorised to enter New South Wales, is also authorised to enter New South Wales if—
 - (a) the accompanying person holds an entry permit to enter New South Wales, and
 - (b) the accompanying person is—
 - (i) required to provide care or support to the affected person, or
 - (ii) because the person is a dependent of the affected person.

6 Directions of Minister about providing information

- (1) The Minister directs that a person must, if required to do so by an enforcement officer, provide information (including photo identification) to allow a decision to be made about—
 - (a) whether the person is an affected person, and
 - (b) if the person is an affected person—whether the person is authorised to enter New South Wales.
- (2) An enforcement officer may require information under subclause (1)(a) only if the enforcement officer believes on reasonable grounds that the person may be an affected person.
- (3) The Minister also directs that a person who provides information in response to requirement under this section must ensure that the information is true and accurate.
- (4) A person provides sufficient information in response to a requirement under this clause about whether the person is authorised to enter New South Wales if the person produces a current entry permit for inspection by the enforcement officer stating that the person is authorised to enter New South Wales.

7 Directions of Minister concerning affected persons required to self-isolate

- (1) The clause applies to an affected person authorised to enter New South Wales if it is a condition of the affected person's authority that the affected person must self-isolate.
- (2) The Minister directs that an affected person to whom this clause applies is to reside at the person's usual place of residence or other suitable place of accommodation until the period of 14 days have elapsed since the person entered New South Wales.

- (3) The Minister directs that, while residing at the usual place of residence or suitable place of accommodation, an affected person must do the following—
 - (a) not leave the residence or accommodation except—
 - (i) to obtain medical care or medical supplies, or
 - (ii) to comply with a legal obligation or comply with an order or a court or tribunal, or
 - (iii) in an emergency situation, or
 - (iv) to provide a critical service, or
 - (v) to leave New South Wales by a direct route,
 - (b) not allow any other person to enter the residence or accommodation unless—
 - (i) that other person usually lives at the place or the other person is also complying with a direction under this Order, or
 - (ii) the entry is for medical or emergency purposes, or
 - (iii) the entry is to a place (other than a residence) for the purposes of delivering food or essential items,
 - (c) otherwise comply with the *NSW Health Self-Isolation Guidelines*.
- (4) The Minister directs that an affected person must, when not at the person's usual place of residence or other suitable place of accommodation, take all reasonable steps to minimise contact with other persons.

8 Directions of Minister concerning leaving New South Wales

- (1) The Minister directs that an affected person must leave New South Wales if required to do so by an enforcement officer.
- (2) An enforcement officer may require an affected person to leave New South Wales only if—
 - (a) the person is a Victorian resident, and
 - (b) the person is not authorised to enter New South Wales.

Part 3 Miscellaneous

9 Exceptions to application or order

This Order does not prevent an affected person entering New South Wales for the sole purpose of travelling by the most practicable direct route to another state or territory, or to an airport for the purpose of leaving New South Wales, if—

- (a) in the case of a person entering New South Wales in a vehicle by road—the person remains in the vehicle in which they entered New South Wales except—
 - (i) to obtain fuel for the vehicle or other necessary supplies for the vehicle or a person in the vehicle, or
 - (ii) to take a rest stop, including an overnight rest stop, or
 - (iii) in an emergency, or
- (b) in the case of a person entering New South Wales by air or rail, the person does not leave the airport or train station except—
 - (i) to travel directly to suitable accommodation while waiting transport out of New South Wales, or
 - (ii) in an emergency.

10 Exemptions

The Minister may, in writing and subject to the conditions that the Minister considers appropriate, grant an exemption to this Order or specified provisions of this Order.

11 Repeal of existing Order

- (1) The *Public Health (COVID-19 Interstate Hotspots) Order 2020* (the **repealed Order**) is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the repealed Order, had effect under that Order continues to have effect under this Order.
- (3) Without limiting subclause (2), any person who was required immediately before the repeal of the Order to reside at the person's place of residence or other suitable place for 14 days must continue to do so until the period ends.
- (4) A person referred to in subclause (3) may only leave the place at which the person is residing in the circumstances permitted by clause 7.

Schedule 1 Authority to enter New South Wales

Column 1	Column 2	Column 3
Relevant class	Entry permit	Relevant conditions
1 NSW resident	Required	Self-isolate
2 Person providing a critical service	Required	Conditions (if any) specified by entry permit
3 Person providing an emergency or law enforcement service	Not required	Nil
4 Member of Parliament or staff member	Required	Conditions (if any) specified by entry permit
5 Consular official	Required	Conditions (if any) specified by entry permit
6 Person entering to avoid injury or harm	Not required	Nil
7 Border community resident	Required	Self-isolate if the person has travelled to a place in Victoria outside a Border community May travel within a Border community of which the person is a resident
8 Relevant education visitor	Required	Conditions (if any) specified by entry permit
9 Person enter for child access or care arrangements	Required	Self-isolate Conditions (if any) specified by entry permit
10 Person entering for medical or hospital services	Not required	Nil
11 Interstate resident transiting through New South Wales	Required	Leave New South Wales by most practicable direct route Conditions (if any) specified by entry permit
12 Seasonal worker	Required	Self-isolate Conditions (if any) specified by entry permit
13 Person entering for compassionate grounds	Required	Conditions (if any) specified by entry permit
14 Person entering to attend court or meet other legal obligations	Not required	Nil

Reference number:(n2020-3086)