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New South Wales

# Public Health (COVID-19 Border Control) Amendment 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 20 July 2020.

BRAD HAZZARD, MP

Minister for Health and Medical Research

## **Explanatory note**

The object of this Order is to make certain amendments to clarify the application and operation of the *Public Health (COVID-19 Border Control) Order 2020*.

## **Public Health (COVID-19 Border Control) Amendment Order 2020**

under the

Public Health Act 2010

### **1 Name of Order**

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

### **2 Commencement**

This Order commences at the beginning of 22 July 2020.

## Schedule 1 Amendment of Public Health (COVID-19 Border Control) Order 2020

### [1] Clause 3 Definitions

Omit the definitions of *Border community*, *Border community resident*, *critical services* and *interstate resident* from clause 3(1).

### [2] Clause 3(1)

Insert in alphabetical order—

***border zone*** means the area shown as the border zone on the Public Health (COVID-19 Border Control) Map approved by the Minister on the making of the *Public Health (COVID-19 Border Control) Amendment Order 2020*.

**Note.** A copy of the Public Health (COVID-19 Border Control) Map is available on [www.nsw.gov.au](http://www.nsw.gov.au).

***border zone resident*** means a person who usually resides within the border zone.

***COVID-19 environmental cleaning*** means environmental cleaning and disinfection in a workplace or other non-residential premises to prevent the spread of COVID-19.

***critical services*** includes the following services—

- (a) the movement of freight on a commercial basis,
- (b) the movement of persons on a commercial basis,
- (c) the maintenance and repair of critical infrastructure,
- (d) medical, hospital, dental or veterinary care,
- (e) Commonwealth defence and security services,
- (f) mining, agriculture, construction, energy or manufacturing,
- (g) COVID-19 environmental cleaning on a commercial basis that is not available locally,

but does not include services provided by a seasonal worker.

***day school*** means the following—

- (a) a government or non-government school, other than a boarding school,
- (b) a pre-school,
- (c) a child care centre.

***day school visitor*** means—

- (a) a person ordinarily resident in Victoria who is—
  - (i) a student at a day school entering New South Wales for the purposes of receiving instruction, or
  - (ii) a parent or guardian accompanying a student referred to in subparagraph (i) if the student is under 18 years of age, or
  - (iii) a staff member of a day school entering New South Wales for the purposes of working at or providing services in relation to the school, or
  - (iv) another person engaged to work at or provide services in relation to a day school entering New South Wales for the purposes of working at or providing services to the school, and

**Note.** Another person engaged to work at or provide services in relation to a day school would include, for example—

- (a) a cleaner contracted to work at the school, and

- (b) a person engaged to drive a school bus.
- (b) a person ordinarily resident in New South Wales who is—
  - (i) a student at a day school in Victoria who, after entering Victoria for the purposes of receiving instruction, is returning to New South Wales, or
  - (ii) a parent or guardian accompanying a student referred to in subparagraph (i) if the student is under 18 years of age, or
  - (iii) a staff member of a day school in Victoria, who after entering Victoria for the purposes of working at the school, is returning to New South Wales, or
  - (iv) another person engaged to work at or provide services in relation to a day school in Victoria, who after entering Victoria for the purposes of working at the school, is returning to New South Wales.

**Note.** Another person engaged to work at or provide services in relation to a day school would include, for example—

- (a) a cleaner contracted to work at the school, and
- (b) a person engaged to drive a school bus.

**permitted purpose**, in relation to an entry permit issued to a border zone resident, means for the purpose of doing any of the following—

- (a) work (but only if the resident cannot work from home),
- (b) attend a school or other educational institution (but only if the resident cannot learn from home),
- (c) obtain medical care or supplies or health services.

**relevant condition**—see clause 5.

**relevant COVID-19 Safety Plan** means—

- (a) for a person moving freight on a commercial basis—a COVID-19 Safety Plan that addresses the matters required by the COVID-19 safety checklist for persons moving freight approved by the Chief Health Officer and published on the New South Wales Government website ([www.nsw.gov.au](http://www.nsw.gov.au)), or
- (b) for child access or care arrangements—the COVID-19 Safety Plan for those arrangements approved by the Chief Health Officer and published on the New South Wales Government website ([www.nsw.gov.au](http://www.nsw.gov.au)).

**[3] Clause 3(1A)**

Insert after clause 3(1)—

- (1A) In this Order, a requirement for a person to take the most practicable direct route does not prevent the person—
  - (a) if the person is travelling by road—
    - (i) obtaining fuel for the vehicle or other necessary supplies for the vehicle or a person in the vehicle, or
    - (ii) taking a rest stop, including an overnight rest stop or meal break, or
    - (iii) dealing with an emergency, or
  - (b) if the person is travelling by rail or air—
    - (i) travelling directly to suitable accommodation while waiting to transit out of the State or Territory concerned if the person self-isolates until the transit, or

- (ii) dealing with an emergency.

**[4] Clause 5 Direction of Minister not to enter New South Wales**

Omit clause 5(2)(c). Insert instead—

- (c) the person complies with all of the following conditions (the *relevant conditions*)—
  - (i) the conditions (if any) specified in Column 3 of Schedule 1 as conditions for the relevant class,
  - (ii) if a permit is required for the relevant class—any other conditions specified by the permit that the Minister has determined in writing to be approved conditions for the particular permit or the relevant class.

**[5] Clause 5(4)(a)**

Omit “accompanying”. Insert instead “affected”.

**[6] Clause 5(4)(b)(ii)**

Omit “affected person.”. Insert instead—

affected person, and

- (c) the accompanying person’s name is recorded on the affected person’s entry permit, and
- (d) the accompanying person complies with the relevant conditions that apply to the affected person.

**[7] Clause 5(5)**

Insert after clause 5(4)—

- (5) Despite subclauses (1) and (4), the Minister directs that an affected person who is not a NSW resident and poses an unacceptable public health risk of transmission of COVID-19 must not enter New South Wales if requested not to do so by an enforcement officer.

**[8] Clause 6 Directions of Minister about providing information**

Omit “believes” from clause 6(2). Insert instead “suspects”.

**[9] Clause 6(3)**

Omit “section”. Insert instead “clause”.

**[10] Clause 6(4) and (5)**

Omit clause 6(4). Insert instead—

- (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) a current entry permit for inspection by the enforcement officer stating that the person is authorised to enter New South Wales, and
  - (b) if requested by the enforcement officer, photographic identification to verify the person is the holder of the permit.
- (5) The Minister directs that an affected person who enters New South Wales using an entry permit must, when travelling or undertaking activities within

the State, carry a copy of the permit while it remains in force so that it can be produced to an enforcement officer on request.

**[11] Clause 7 Directions of Minister concerning affected persons required to self-isolate**

Omit clause 7(1). Insert instead—

- (1) This clause applies to an affected person who is required to self-isolate because of clause 3(1A)(b)(i) or a relevant condition of an entry permit held by the person.

**[12] Clause 7(3)(a)(v)**

Omit “a direct route”. Insert instead “the most practicable direct route”.

**[13] Clause 8**

Omit the clause. Insert instead—

**8 Directions of Minister concerning leaving New South Wales**

The Minister directs that an affected person who is not a NSW resident and is not authorised to enter New South Wales must leave New South Wales if asked to do so by an enforcement officer.

**[14] Clause 9**

Omit the clause. Insert instead—

**9 Relationship of Order with related Public Health Orders**

- (1) To avoid doubt, an affected person who is authorised to enter New South Wales for the purposes of this Order must comply with any directions applicable to the person under a related Public Health Order (including in respect of isolation).
- (2) In this clause—  
*related Public Health Order* means each of the following orders made under section 7 of the Act as in force from time to time—
  - (a) the *Public Health (COVID-19 Aged Care Facilities) Order (No 2) 2020*,
  - (b) the *Public Health (COVID-19 Air Transportation Quarantine) Order (No 2) 2020*,
  - (c) the *Public Health (COVID-19 Maritime Quarantine) Order (No 2) 2020*,
  - (d) the *Public Health (COVID-19 Self-Isolation) Order (No 2) 2020*,
  - (e) any order that remakes, replaces or consolidates (whether in whole or in part) any order or orders mentioned above.

**[15] Part 4**

Insert after clause 10—

**Part 4 Repeal, savings and transitional provisions**

**Division 1 Repeal**

**[16] Division 2 of Part 4**

Insert after clause 11—

## **Division 2 Savings and transitional provisions for Public Health (COVID-19 Border Control) Amendment Order 2020**

### **12 Definitions**

In this Division—

**amending Order** means the *Public Health (COVID-19 Border Control) Amendment Order 2020*.

**commencement** means the commencement of the amending Order.

### **13 Entry permits—persons not in New South Wales**

- (1) This clause applies if, immediately before the commencement—
  - (a) a person held an entry permit, but
  - (b) was not in New South Wales.
- (2) From the commencement—
  - (a) the entry permit ceases to have effect, and
  - (b) the person is not authorised to enter New South Wales under the entry permit.
- (3) This clause does not apply to an entry permit authorising a person to enter New South Wales for compassionate grounds under item 13 of Schedule 1, as in force immediately before the commencement.

### **14 Entry permits—compassionate grounds**

- (1) This clause applies, if immediately before the commencement—
  - (a) a person held an entry permit authorising the person to enter New South Wales for compassionate grounds under item 13 of Schedule 1, and
  - (b) was not in New South Wales.
- (2) Unless sooner revoked, the entry permit—
  - (a) continues in force for the balance of the period (if any) for which it was originally issued, and
  - (b) while it continues in force, remains subject to the condition specified for item 13 of Schedule 1 immediately before the commencement.
- (3) To remove any doubt, the person—
  - (a) may enter New South Wales in accordance with the permit, and
  - (b) must continue to comply with the conditions specified by the entry permit including, for example, any obligation to self-isolate.

### **15 Entry permits—persons in New South Wales**

- (1) This clause applies if, immediately before the commencement—
  - (a) a person held an entry permit, and
  - (b) was in New South Wales in accordance with the permit.
- (2) Subject to subclause (4), the entry permit—
  - (a) continues in force for the balance of the period (if any) for which it was originally issued, unless sooner revoked, and
  - (b) while it continues in force, remains subject to the same conditions that applied immediately before the commencement.
- (3) To remove any doubt, the person—

- (a) may remain in New South Wales in accordance with the permit, and
  - (b) must continue to comply with the conditions specified by the entry permit including, for example, any obligation to self-isolate.
- (4) However, if the person leaves New South Wales—
- (a) the permit ceases to have effect, and
  - (b) the person is not authorised to enter New South Wales under the entry permit.

#### **16 Exceptions under clause 9**

Clause 9, as in force immediately before its repeal by the amending Order, continues to apply to an affected person if—

- (a) the person entered New South Wales before the repeal of the clause for the sole purpose mentioned in the clause, and
- (b) the person had not yet left New South Wales when the clause was repealed.

#### **17 Pre-existing activities**

To avoid doubt, an amendment of Schedule 1 by the amending Order requiring an entry permit for a class of entry into New South Wales for an activity does not prevent an affected person from undertaking the activity if—

- (a) the activity was previously specified by Schedule 1 to be an activity for which a permit was not required, and
- (b) the person entered New South Wales before the amendment commenced to undertake the activity, and
- (c) the person has remained in New South Wales since entry, but has not yet completed that activity.

#### **[17] Schedule 1 Authority to enter New South Wales**

Insert after the Schedule heading—

**Note.** Clause 5(2) provides that a person is authorised to enter New South Wales if the person belongs to a class of persons specified by Column 1 of this Schedule. The class of persons must hold a permit if Column 2 of this Schedule requires a permit. The person authorised must comply with—

- (a) the conditions (if any) specified in Column 3 of this Schedule for the class of persons, and
- (b) if a permit is required for the class of persons—any other conditions specified by the permit that the Minister has determined in writing to be approved conditions for the particular permit or the class.

If a person is authorised to enter New South Wales for a particular purpose, the person may remain in New South only to undertake that purpose.

#### **[18] Schedule 1, items 1 and 2**

Omit the items. Insert instead—

1	NSW resident (other than a NSW resident mentioned in item 1A or 1B)	Required	The NSW resident must self-isolate
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1A	NSW resident who has been quarantined in Victoria for the previous 14 days under the <i>Public Health and Wellbeing Act 2008</i> of Victoria	Required	The NSW resident— (a) must have documentary evidence that the resident has completed the Victorian quarantine period, and (b) must travel to New South Wales by the most practicable direct route from the place of quarantine
1B	NSW resident who was transiting at a Victorian airport from another State or a Territory and who did not leave the airport while in Victoria	Required	
2	Person providing a critical service	Required	The person must— (a) for a person moving freight on a commercial basis—comply with the relevant COVID-19 Safety Plan at all times, or (b) otherwise—self-isolate except when providing the critical service

**[19] Schedule 1, items 4 and 5**

Omit the items. Insert instead—

4	Member of Parliament or staff member	Required	The member must self-isolate except when undertaking official duties or leaving New South Wales by the most practicable direct route
5	Consular official	Required	The consular official must self-isolate except when undertaking official duties or leaving New South Wales by the most practicable direct route

**[20] Schedule 1, item 6**

Omit “injury or harm” from Column 1.

Insert instead “injury, harm or immediate emergency situation”.

**[21] Schedule 1, items 7 and 8**

Omit the items. Insert instead—

7	Border zone resident	Required	<p>A border zone resident who is a Victorian resident—</p> <ul style="list-style-type: none"><li>(a) is authorised to enter and remain in New South Wales only for a permitted purpose, and</li><li>(b) must not travel to any part of New South Wales that is outside of the border zone, and</li><li>(c) must not enter New South Wales if the resident had travelled in Victoria outside the border zone within the previous 14 days</li></ul> <p>A border zone resident who is a NSW resident must self-isolate if—</p> <ul style="list-style-type: none"><li>(a) the resident travels within Victoria outside the border zone before re-entering New South Wales using the permit, or</li><li>(b) the resident entered Victoria other than for a permitted purpose</li></ul>
8	Relevant education visitor	Required	<p>The relevant education visitor must—</p> <ul style="list-style-type: none"><li>(a) self-isolate, and</li><li>(b) obtain a negative COVID-19 swab result between the 10th and 14th day of self-isolation, and</li><li>(c) start an additional period of self-isolation if, for any reason (including weekend visits), the visitor returns to Victoria</li></ul>

8A	Day school visitor	Required	<p>The day school visitor must travel by the most practicable direct route between their place of residence and the school</p> <p>The day school visitor must comply with any directions about attendance at school issued by the Secretary of the NSW Department of Education and Training</p> <p>If the day school visitor is ordinarily resident in Victoria, the visitor must not enter New South Wales if the visitor has, within the previous 14 days, been in an area that is a restricted area in accordance with an Area Direction made under the <i>Public Health and Wellbeing Act 2008</i> of Victoria</p> <p>If the day school visitor is ordinarily resident in New South Wales, the visitor must self-isolate if the visitor returns to New South Wales and has, within the previous 14 days, been in an area that is a restricted area in accordance with an Area Direction made under the <i>Public Health and Wellbeing Act 2008</i> of Victoria</p>
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**[22] Schedule**

Omit items 9–12. Insert instead—

9	Person entering for child access or care arrangements	Required	<p>The person must comply with the relevant COVID-19 Safety Plan at all times or self-isolate</p>
10	Person entering for medical or hospital services except in emergency situation	Required	<p>The person must travel by the most practicable direct route to the place where the service is provided</p> <p>The person must not enter New South Wales if the person has, within the previous 14 days, been in an area that is a restricted area in accordance with an Area Direction made under the <i>Public Health and Wellbeing Act 2008</i> of Victoria</p> <p>The person is authorised to enter New South Wales only if the service is not available in Victoria or cannot be accessed remotely</p>

10A	Person requiring medical, hospital, dental or veterinary care in an emergency situation	Not required	The person must travel by the most practicable direct route— (a) to the place where the service is provided, and (b) from the place where the service is provided to the person’s place of residence.
11	Person who is transiting through New South Wales by road, rail or air	Required	The person must— (a) enter New South Wales only if the person has lawful authority to enter the place outside New South Wales to which the person is travelling, and (b) transit through New South Wales by the most practicable direct route
11A	A person who has transited in Victoria after being a passenger on the vessel known as the Spirit of Tasmania	Required	The person must— (a) if the person enters New South Wales by air—travel from the vessel by the most practicable direct route to an airport in Victoria without leaving the airport except to board a flight to New South Wales, or (b) if the person enters New South Wales by road or rail—travel by the most practicable direct route from the vessel to New South Wales
11B	A person who has transited in Victoria from South Australia by road or rail	Required	The person must travel by the most practicable direct route to New South Wales

**[23] Schedule 1, item 13, Column 3**

Omit “Conditions (if any) specified by entry permit”.

**[24] Schedule 1, item 14**

Omit the item. Insert instead—

14	Person entering to attend court or meet other legal obligations	Required	The person must self-isolate except to attend court or meet other legal obligations
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Reference number:(n2020-3292)