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New South Wales

# Public Health (COVID-19 Restrictions on Gathering and Movement) Order (No 7) 2020

under the

Public Health Act 2010

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

Dated 5 December 2020.

BRAD HAZZARD, MP  
Minister for Health and Medical Research

## Explanatory note

The object of this Order is to revoke and remake, with some changes, the *Public Health (COVID-19 Restrictions on Gathering and Movement) Order (No 6) 2020*. The changes relate to the following—

- (a) the maximum number of persons allowed on non-residential premises, including gymnasiums and nightclubs,
- (b) the maximum number of persons allowed at significant events,
- (c) the maximum number of persons allowed at outdoor public gatherings, including community sporting activities, political protests, outdoor rehearsals and performances, regional agricultural shows and agricultural field days and controlled outdoor public gatherings,
- (d) other minor clarifications and changes.

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## Public Health (COVID-19 Restrictions on Gathering and Movement) Order (No 7) 2020

under the

Public Health Act 2010

### Part 1 Preliminary

#### 1 Name of Order

This Order is the *Public Health (COVID-19 Restrictions on Gathering and Movement) Order (No 7) 2020*.

#### 2 Commencement

This Order commences at the beginning of 7 December 2020.

#### 3 Definitions

(1) In this Order—

**agricultural field day** means an agricultural field day conducted by a society or association that is a member of the Agricultural Societies Council of NSW.

**agricultural show** means an agricultural show or show parade conducted by a society or association that is a member of the Agricultural Societies Council of NSW.

**approved COVID-19 safety checklist** means a COVID-19 safety checklist, approved by the Chief Health Officer and published on the New South Wales Government website.

**community sporting activity** includes a training session for a community sporting activity.

**controlled outdoor public gathering** means an outdoor public gathering in an area (the **enclosed area**)—

- (a) that is enclosed or bounded by fencing or another form of barrier, and
- (b) access to which is controlled by way of a ticket, and
- (c) in relation to which all persons, other than persons engaged in work, are assigned to specific seats or to a seating area.

**COVID-19 Safety Hygiene Marshal**, for a hospitality venue or gymnasium, means a person who—

- (a) is responsible for ensuring the COVID-19 Safety Plan for the premises is being adhered to, and
- (b) is dressed in distinctive clothing.

**event** includes a function.

**gymnasium** means a gymnasium that is a recreation facility (indoor) and that is open to members of the public, but does not include a dance, yoga, pilates, gymnastics or martial arts studio.

**hospitality venue** means the following—

- (a) a casino,

- (b) food and drink premises,
- (c) micro-breweries, small distilleries holding a drink on-premises authorisation under the *Liquor Act 2007* and cellar door premises,
- (d) pubs,
- (e) registered clubs,
- (f) small bars.

**household** means persons living together in the same place of residence.

**indoor area** includes an area in a building or other structure, whether or not temporary, which has a roof, ceiling or other top covering, but does not include an area with at least 2 sides open to the weather.

**natural swimming pool** means a swimming pool that only contains untreated water that is supplied directly to the pool from the ocean or other natural water source and that does not have a circulation system.

**nightclub** means any premises that are the subject of an on-premises licence in force under the *Liquor Act 2007* that relates to a public entertainment venue (other than a cinema or theatre).

**occupier of premises** includes the operator of a vehicle or vessel.

**Note.** The *Public Health Act 2010* defines the occupier of premises or a part of premises to mean the owner of the premises or part of premises or if any other person is entitled to occupy the premises or part to the exclusion of the owner, that person.

**outdoor rehearsal or performance** means a rehearsal or performance of performing arts by one or more persons that is conducted in an outdoor public place.

**party bus** means a vehicle being used on a commercial basis for the purposes of a party, whether or not the party takes place during transportation between locations.

**place of residence** includes the premises where a person lives and a garden, yard, passage, stairs, garage, outhouse or other area or thing attached to, or used in connection with, the premises.

**public entertainment venue** has the same meaning as in section 4 of the *Liquor Act 2007*.

**public gathering** means a meeting or assembly of persons for a common purpose, including an organised or planned event, in a public place, whether ticketed or not.

**public place** has the same meaning as in the *Summary Offences Act 1988*.

**short-term rental** means premises to which a short-term rental accommodation arrangement, as defined in section 54A of the *Fair Trading Act 1987*, applies.

**significant event** means—

- (a) a funeral or memorial service,
- (b) a wedding service,
- (c) a gathering following a funeral or memorial service or wedding service.

**the Act** means the *Public Health Act 2010*.

**work** includes work done as a volunteer or for a charitable organisation.

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

- (2) A reference to a type of premises in this Order has the same meaning as it has in the Standard Instrument set out in the *Standard Instrument (Local Environmental Plans) Order 2006*.

**Note.** The Standard Instrument includes the following definitions—

**amusement centre** means a building or place (not being part of a pub or registered club) used principally for playing—

- (a) billiards, pool or other like games, or

- (b) electronic or mechanical amusement devices, such as pinball machines, computer or video games and the like.

**business premises** means a building or place at or on which—

- (a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or
- (b) a service is provided directly to members of the public on a regular basis, and includes a funeral home and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, betting agencies and the like, but does not include an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital.

**camping ground** means an area of land that has access to communal amenities and on which campervans or tents, annexes or other similar portable and lightweight temporary shelters are, or are to be, installed, erected or placed for short term use, but does not include a caravan park.

**caravan park** means land (including a camping ground) on which caravans (or caravans and other moveable dwellings) are, or are to be, installed or placed.

**cellar door premises** means a building or place that is used to sell wine by retail and that is situated on land on which there is a commercial vineyard, and where most of the wine offered for sale is produced in a winery situated on that land or is produced predominantly from grapes grown in the surrounding area.

**early education and care facility** means a building or place used for the education and care of children, and includes a centre-based child care facility, home-based child care and school-based child care.

**entertainment facility** means a theatre, cinema, music hall, concert hall, dance hall and the like, but does not include a pub or registered club.

**food and drink premises** means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following—

- (a) a restaurant or cafe,
- (b) take away food and drink premises,
- (c) a pub,
- (d) a small bar.

**function centre** means a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility.

**information and education facility** means a building or place used for providing information or education to visitors, and the exhibition or display of items, and includes an art gallery, museum, library, visitor information centre and the like.

**market** means an open-air area, or an existing building, that is used for the purpose of selling, exposing or offering goods, merchandise or materials for sale by independent stall holders, and includes temporary structures and existing permanent structures used for that purpose on an intermittent or occasional basis.

**place of public worship** means a building or place used for the purpose of religious worship by a congregation or religious group, whether or not the building or place is also used for counselling, social events, instruction or religious training.

**pub** means licensed premises under the *Liquor Act 2007* the principal purpose of which is the retail sale of liquor for consumption on the premises, whether or not the premises include hotel or motel accommodation and whether or not food is sold or entertainment is provided on the premises.

**recreation facility (indoor)** means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.

**recreation facility (major)** means a building or place used for large-scale sporting or recreation activities that are attended by large numbers of people whether regularly or periodically, and includes theme parks, sports stadiums, showgrounds, racecourses and motor racing tracks.

**registered club** means a club that holds a club licence under the *Liquor Act 2007*.

**sex services premises** means a brothel, but does not include home occupation (sex services).

**take away food and drink premises** means premises that are predominantly used for the preparation and retail sale of food or drink (or both) for immediate consumption away from the premises.

**tourist and visitor accommodation** means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes any of the following—

- (a) backpackers' accommodation,
- (b) bed and breakfast accommodation,
- (c) farm stay accommodation,
- (d) hotel or motel accommodation,
- (e) serviced apartments,

but does not include—

- (f) camping grounds, or
- (g) caravan parks, or
- (h) eco-tourist facilities.

#### **4 Interpretation generally**

- (1) In calculating both the space available for each person on any premises and the number of persons on the premises, the following persons are not to be included in any calculations—
  - (a) any person engaged in work on the premises for the occupier of the premises,
  - (b) any person on the premises because of an emergency,
  - (c) if the premises are food and drink premises, any person ordering or collecting food or drink to consume off the premises.
- (2) In calculating the space available for each person on any premises, only the areas that are open to the public are to be included in the calculations.
- (3) Notes included in this Order do not form part of this Order.

#### **5 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, which is a condition caused by the severe acute respiratory syndrome coronavirus 2 (SARS-COV-2),
- (b) COVID-19 is a potentially fatal condition and is highly contagious,
- (c) a number of cases of individuals with COVID-19 have now been confirmed in New South Wales and other Australian jurisdictions, including by means of community transmission, and there is an ongoing risk of continuing introduction of the virus into the New South Wales community.

#### **6 Direction of Minister about place of work**

- (1) The Minister directs that an employer must allow an employee to work at the employee's place of residence if it is reasonably practicable to do so.
- (2) This clause is repealed at the beginning of 14 December 2020.

## Part 2 Restrictions on gatherings and use of premises

### Division 1 Non-residential premises

#### 7 Direction of Minister requiring COVID-19 Safety Plans

The Minister directs that occupiers of premises listed in column 2 of Schedule 1 must—

- (a) develop and comply with a COVID-19 Safety Plan that addresses the matters required by the approved COVID-19 safety checklist set out opposite the premises in column 3 of Schedule 1 approved on the date specified in column 4 of Schedule 1, and
- (b) keep a copy of the COVID-19 Safety Plan on the premises and make it available for inspection by an authorised officer or police officer as requested.

#### 8 Direction of Minister requiring COVID-19 Safe business registration

The Minister directs that for any of the following premises, the occupier of the premises must register with the NSW Government as a COVID-19 Safe business—

- (a) crematoria,
- (b) funeral homes,
- (c) gymnasiums,
- (d) hospitality venues,
- (e) nightclubs,
- (f) places of public worship.

**Note.** For how to register as a COVID-19 Safe business, see the NSW Government website at [www.nsw.gov.au](http://www.nsw.gov.au)

#### 9 Direction of Minister about number of persons allowed on premises

- (1) The Minister directs that an occupier of premises must not allow more than 25 persons on the premises if the size of the premises is insufficient to ensure there is at least 2 square metres of space for each person on the premises.
- (2) This clause does not apply to—
  - (a) a place of residence, or
  - (b) a gymnasium, or
  - (c) an entertainment facility, or
  - (d) a nightclub, or
  - (e) a recreation facility (major), or
  - (f) a vessel used for commercial tours for scuba diving, snorkelling or whale, dolphin or marine animal watching, but only if there are 50 or fewer persons on the vessel, or
  - (g) caravan parks and camping grounds, or
  - (h) holiday homes and short-term rentals, or
  - (i) a gathering referred to in Schedule 2.

#### 10 Directions of Minister about gymnasiums

- (1) The Minister directs that an occupier of a gymnasium must not allow persons on the premises if the size of the premises is insufficient to ensure there is at least 4 square metres of space for each person on the premises.

- (2) The Minister directs that the occupier of a gymnasium must ensure there is a COVID-19 Safety Hygiene Marshal on the premises if—
  - (a) the gymnasium is open for use, and
  - (b) more than 25 persons are being allowed to use the gymnasium at the same time.
- (3) The Minister directs that an occupier of a gymnasium must ensure the maximum number of persons attending any individual class or activity carried out at the gymnasium does not exceed 50 persons.
- (4) For the purposes of subsection (3), a person is attending the class or activity if the person is—
  - (a) participating in the class or activity, or
  - (b) instructing at or supervising the class or activity.

#### **11 Direction of Minister about hospitality venues**

The Minister directs that the occupier of a hospitality venue must ensure there is a COVID-19 Safety Hygiene Marshal on the premises if there are more than 250 persons on the premises.

#### **12 Directions of Minister about nightclubs**

- (1) The Minister directs that the occupier of a nightclub must ensure there is a COVID-19 Safety Hygiene Marshal on the premises if there are more than 250 persons on the premises.
- (2) The Minister directs that an occupier of a nightclub must not allow persons on the premises if the size of the premises is insufficient to ensure there is at least 4 square metres of space for each person on the premises.

#### **13 Directions of Minister about entertainment facilities**

- (1) The Minister directs that the occupier of an entertainment facility must ensure the maximum number of persons on the premises is—
  - (a) for an indoor entertainment facility, the greater of the following—
    - (i) the number of persons equal to 75% of the fixed seating capacity of the entertainment facility,
    - (ii) the number of persons equivalent to 1 person per 2 square metres of space in the entertainment facility, and
  - (b) for an outdoor entertainment facility, the greater of the following—
    - (i) the number of persons equal to 100% of the fixed seating capacity of the entertainment facility,
    - (ii) the number of persons equivalent to 1 person per 2 square metres of space in the entertainment facility.
- (2) The Minister directs that if the occupier of an entertainment facility calculates the maximum number of persons allowed to be on the premises based on the percentage of the fixed seating capacity of the entertainment facility, the occupier must ensure—
  - (a) admission to the premises is by way of a ticket, and
  - (b) all persons, other than persons engaged in work, are assigned to specific seats.

#### **14 Directions of Minister about recreation facilities (major)**

- (1) The Minister directs that the occupier of a recreation facility (major) must ensure the maximum number of persons on the premises is the number of persons equal to—

- (a) for an indoor recreation facility (major), the greater of the following—
    - (i) the number of persons equal to 75% of the fixed seating capacity of the recreation facility (major),
    - (ii) the number of persons equivalent to 1 person per 2 square metres of space in the recreation facility (major), and
  - (b) for an outdoor recreation facility (major), the greater of the following—
    - (i) the total of—
      - (A) 100% of the fixed seating capacity of the recreation facility (major), and
      - (B) the number of persons equal to 1 person per 2 square metres of space of any unfixed seating areas of the recreation facility (major),
    - (ii) the number of persons equivalent to 1 person per 2 square metres of space in the recreation facility (major).
- (2) The Minister directs that if the occupier of a recreation facility (major) calculates the maximum number of persons allowed to be on the premises based on the percentage of the fixed seating capacity of the recreation facility (major), the occupier must ensure—
- (a) admission to the premises is by way of a ticket, and
  - (b) all persons, other than persons engaged in work, are assigned to specific seats or to a seating area.

## Division 2 Residential premises

### 15 Directions of Minister about number of persons allowed on residential premises

- (1) The Minister directs that each adult member of a household must not allow more than 50 visitors to be at the place of residence of the household at any one time.  
**Note:** NSW Health recommends a maximum 30 visitors if the place of residence does not have any outdoor space.
- (2) The Minister directs that a visitor to a place of residence must not participate in a gathering at the residence consisting of more than 50 visitors.
- (3) This clause does not apply to—
  - (a) a significant event, or
  - (b) the viewing or inspection of real property for sale or lease or an auction of real property.
- (4) For the purposes of this clause, a person is not a visitor to a place of residence if the person is a member of the household of the place of residence.

## Division 3 Significant events

### 16 Direction of Minister requiring COVID-19 Safety Plans

- (1) The Minister directs that the responsible person for a significant event must—
  - (a) have and comply with a COVID-19 Safety Plan that addresses the matters required by the approved COVID-19 safety checklist set out opposite the type of event in column 3 of Schedule 1 approved on the date specified in column 4 of Schedule 1, and  
**Note.** If a person is a responsible person for more than 1 significant event, the person may not need to develop a specific COVID-19 Safety Plan for each event. For example, if wedding services are regularly held in an indoor space on premises, the occupier of

the premises may have one COVID-19 Safety Plan that applies to all wedding services held on the premises.

- (b) keep a copy of the COVID-19 Safety Plan on the premises while the significant event is being held and make it available for inspection by an authorised officer or a police officer as requested.
- (2) In this clause—
- responsible person** means—
- (a) for a significant event held in a public park, a reserve or a public garden—the person organising the event or conducting the service, and
  - (b) for another significant event—the occupier of the premises.

## **Division 4 Community sporting activities**

### **17 Definitions**

In this Division—

**organiser** means—

- (a) for an activity conducted by or on behalf of an entity that is registered under the *Associations Incorporation Act 2009*, the public officer of the entity, or
- (b) for an activity conducted by or on behalf of an entity other than an entity referred to in paragraph (a), the chief executive officer of the entity, however described, or
- (c) in all other cases, the person who made the arrangements for the activity.

**participant** includes—

- (a) a person engaged in the sporting activity, and
- (b) an official involved in the conduct or organisation of the sporting activity, and
- (c) a spectator of the sporting activity.

### **18 Direction of Minister requiring COVID-19 Safety Plans**

The Minister directs that the organiser of a community sporting activity that involves a gathering of more than 100 participants must—

- (a) have and comply with a COVID-19 Safety Plan that addresses the matters required by the approved COVID-19 safety checklist set out opposite the type of event in column 3 of Schedule 1 approved on the date specified in column 4 of Schedule 1, and
- (b) keep a copy of the COVID-19 Safety Plan and make it available for inspection by an authorised officer or a police officer as requested.

### **19 Direction of Minister about maximum number of participants**

The Minister directs that the organiser of a community sporting activity must ensure the maximum number of participants in the community sporting activity is the lesser of the following number of participants—

- (a) the number of persons equivalent to 1 person per 2 square metres of space of the premises in which the activity is conducted,
- (b) 3,000 participants.

### **20 Community sporting activities to which this Division does not apply**

This Division does not apply to—

- (a) a gathering on premises for which a person is required by clause 7 to develop and keep a COVID-19 Safety Plan, or
- (b) a gathering listed in Schedule 2, or
- (c) a community sporting activity that is a controlled outdoor public gathering.

## **Division 5 Outdoor rehearsals or performances**

### **21 Definitions**

In this Division—

**organiser** of an outdoor rehearsal or performance means the person principally responsible for organising the rehearsal or performance.

**participant**, in relation to an outdoor rehearsal or performance, includes—

- (a) a person engaged in the rehearsal or performance, and
- (b) a spectator of the rehearsal or performance.

### **22 Direction of Minister about COVID-19 Safety Plans**

The Minister directs that the organiser of an outdoor rehearsal or performance that involves more than 100 participants must—

- (a) have and comply with a COVID-19 Safety Plan that addresses the matters required by the approved COVID-19 safety checklist set out opposite the type of event in column 3 of Schedule 1 approved on the date specified in column 4 of Schedule 1, and
- (b) keep a copy of the COVID-19 Safety Plan and make it available for inspection by an authorised officer or a police officer as requested.

### **23 Direction of Minister about maximum number of participants**

The Minister directs that the organiser of an outdoor rehearsal or performance must ensure the maximum number of participants in the outdoor rehearsal or performance is the lesser of the following number of participants—

- (a) the number of participants equivalent to 1 person per 2 square metres of space of the premises in which the activity is conducted,
- (b) 3,000 participants.

### **24 Outdoor rehearsals or performances to which this Division does not apply**

This Division does not apply to—

- (a) a gathering on premises for which a person is required by clause 7 to develop and keep a COVID-19 Safety Plan, or
- (b) a gathering listed in Schedule 2, or
- (c) an outdoor rehearsal or performance that is a controlled outdoor public gathering.

## **Division 6 Regional agricultural shows and agricultural field days**

### **25 Definitions**

In this Division—

**organiser** means—

- (a) for a regional agricultural show or agricultural field day conducted by or on behalf of an entity that is registered under the *Associations Incorporation Act 2009*, the public officer of the entity, or

- (b) for a regional agricultural show or agricultural field day conducted by or on behalf of an entity other than an entity referred to in paragraph (a), the chief executive officer of the entity, however described, or
- (c) in all other cases, the person who made the arrangements for the regional agricultural show or agricultural field day.

*participant*, in relation to a regional agricultural show or agricultural field day, includes—

- (a) a person participating in the agricultural show or agricultural field day, and
- (b) a spectator of the agricultural show or agricultural field day.

#### **26 Direction of Minister about COVID-19 Safety Plans**

The Minister directs that the organiser of a regional agricultural show or agricultural field day that involves more than 100 participants must—

- (a) have and comply with a COVID-19 Safety Plan that addresses the matters required by the approved COVID-19 safety checklist set out opposite the type of event in column 3 of Schedule 1 approved on the date specified in column 4 of Schedule 1, and
- (b) keep a copy of the COVID-19 Safety Plan and make it available for inspection by an authorised officer or a police officer as requested.

#### **27 Direction of Minister about maximum number of participants**

The Minister directs that the organiser of a regional agricultural show or agricultural field day must ensure the maximum number of participants in the agricultural show or agricultural field day is the number of participants equivalent to 1 person per 2 square metres of space of the premises at which the agricultural show or agricultural field day is conducted.

#### **28 Regional agricultural shows and agricultural field days to which this Division does not apply**

This Division does not apply to—

- (a) a gathering on premises for which a person is required by clause 7 to develop and keep a COVID-19 Safety Plan, or
- (b) a gathering listed in Schedule 2, or
- (c) a regional agricultural show or agricultural field day that is a controlled outdoor public gathering.

### **Division 7 Outdoor public gatherings**

#### **29 Direction of Minister about outdoor public gatherings**

- (1) The Minister directs that a person must not participate in an outdoor public gathering of more than 100 persons.
- (2) This clause does not apply to a person who is—
  - (a) engaged in work, or
  - (b) providing care or assistance to vulnerable persons.
- (3) This clause does not apply to the following—
  - (a) a gathering on premises for which a person is required by clause 7 to develop and keep a COVID-19 Safety Plan,
  - (b) a community sporting activity for which a person is required by clause 18 to develop and keep a COVID-19 Safety Plan,

- (c) an outdoor rehearsal or performance for which a person is required by clause 22 to develop and keep a COVID-19 Safety Plan,
  - (d) a gathering listed in Schedule 2,
  - (e) a gathering of persons who are all from the same household,
  - (f) a significant event,
  - (g) a gathering to provide emergency assistance to a person or persons,
  - (h) a gathering necessary to allow a person to fulfil a legal obligation,
  - (i) a gathering of persons on real property to enable persons to view or inspect the real property for the purposes of the sale or lease of that property,
  - (j) a gathering of persons at a display home or other display premises to enable persons to view or inspect the display home or display premises for the purpose of the sale or lease of real property,
  - (k) a regional agricultural show or agricultural field day,
  - (l) a controlled outdoor public gathering.
- (4) This clause does not apply to an outdoor public gathering if—
- (a) the gathering is for the purpose of a protest or demonstration about a governmental or political matter, and
  - (b) the gathering consists of no more than 3,000 persons, and
  - (c) the person who is principally responsible for organising the gathering—
    - (i) has and complies with a COVID-19 Safety Plan that addresses the matters required by the approved COVID-19 safety checklist set out opposite the type of event in column 3 of Schedule 1 approved on the date specified in column 4 of Schedule 1, and
    - (ii) keeps a copy of the COVID-19 Safety Plan while the gathering occurs at the place the gathering is held or begins and makes it available for inspection by an authorised officer or a police officer as requested.

### 30 Directions of Minister about controlled outdoor public gatherings

- (1) In this clause—  
*organiser* of a controlled outdoor public gathering means the person principally responsible for organising the gathering.
- (2) The Minister directs that the organiser of a controlled outdoor public gathering must—
- (a) have and comply with a COVID-19 Safety Plan that addresses the matters required by the approved COVID-19 safety checklist set out opposite the type of event in column 3 of Schedule 1 approved on the date specified in column 4 of Schedule 1, and
  - (b) keep a copy of the COVID-19 Safety Plan and make it available for inspection by an authorised officer or a police officer as requested.
- (3) The Minister directs that the organiser of a controlled outdoor public gathering must ensure all persons participating in the gathering, other than persons engaged in work, are assigned to specific seats or to a seating area.
- (4) The Minister directs that the organiser of a controlled outdoor public gathering must ensure the maximum number of persons participating in the gathering is the lesser of the following number of persons—
- (a) for a gathering at which persons participating in the gathering are assigned specific seats—

- (i) the number of persons equivalent to 1 person per 2 square metres of space of the premises in which the activity is conducted, or
  - (ii) 5,000 persons,
- (b) for a gathering at which persons participating in the gathering are assigned to a seating area, but not to specific seats—
  - (i) the number of persons equivalent to 1 person per 2 square metres of space of the premises in which the activity is conducted, or
  - (ii) 3,000 persons.
- (5) The Minister directs that the organiser of a controlled outdoor public gathering must ensure the gathering does not last longer than 5 hours.
- (6) This clause does not apply to the following—
  - (a) a gathering on premises for which a person is required by clause 7 to develop and keep a COVID-19 Safety Plan,
  - (b) a gathering listed in Schedule 2.

## **Division 8 Use of premises for specific activities**

### **31 Direction of Minister about holiday homes and short-term rentals**

The Minister directs that the occupier of premises may not allow the premises to be used for the purpose of a holiday home or a short-term rental for more than 50 persons unless all of those persons are from the same household.

### **32 Directions of Minister about dance floors**

- (1) The Minister directs that the occupier of premises must ensure the maximum number of persons in an indoor area of the premises that is used as a dance floor does not exceed 50 persons.
- (2) The Minister directs that the occupier of premises must ensure the maximum number of persons in an outdoor area of the premises that is used as a dance floor does not exceed 500 persons.

### **33 Direction of Minister about auctions, open houses or other inspections or viewings**

- (1) If a real estate agent is engaged to sell or lease real property, the Minister directs that the agent must ensure an auction, open house or other inspection or viewing of the property is conducted in compliance with a relevant COVID-19 Safety Plan.
- (2) In this clause—
  - real estate agent* has the same meaning as in the *Property and Stock Agents Act 2002*.
  - relevant COVID-19 Safety Plan* means a COVID-19 Safety Plan that addresses the matters required by the approved COVID-19 safety checklist for auctions and open houses approved on 4 December 2020.

### **34 Direction of Minister about religious services held on premises other than place of public worship**

The Minister directs that the person principally responsible for organising a religious service on premises other than a place of public worship must—

- (a) have and comply with a COVID-19 Safety Plan that addresses the matters required by the approved COVID-19 safety checklist set out opposite the type of event in column 3 of Schedule 1 approved on the date specified in column 4 of Schedule 1, and

- (b) keep a copy of the COVID-19 Safety Plan on the premises and make it available for inspection by an authorised officer or a police officer as requested.

## **Division 9 Lord Howe Island**

### **35 Directions of Minister about Lord Howe Island**

- (1) The Minister directs that an owner or operator of a short-term rental, or of tourist and visitor accommodation, on Lord Howe Island must—
  - (a) develop and comply with a COVID-19 Safety Plan that addresses the matters required by the “Hotels and accommodation on Lord Howe Island” approved COVID-19 safety checklist approved on 4 December 2020, and
  - (b) keep a copy of the COVID-19 Safety Plan and make it available for inspection by an authorised officer or police officer as requested, and
  - (c) register with the NSW Government as a COVID-19 Safe business.
- (2) The Minister directs that the following must register with the NSW Government as a COVID-19 Safe business—
  - (a) an occupier of a community centre on Lord Howe Island,
  - (b) an occupier of a vessel used for hosting functions or commercial tours that operates from or near Lord Howe Island.

**Note.** For how to register as a COVID-19 Safe business, see the NSW Government website at [www.nsw.gov.au](http://www.nsw.gov.au)

## Part 3 Records and exchange of information

### 36 Directions of Minister concerning persons providing contact details

- (1) The Minister directs that a person who enters premises specified in Schedule 3, subject to the exceptions in the Schedule, must provide the person's contact details to the occupier of the premises in accordance with this clause.
  - (2) The Minister directs that the occupier of the premises must require a person specified in subclause (1) to provide the person's contact details in accordance with this clause.
  - (3) A person is to provide the person's contact details as follows—
    - (a) for a person entering premises to attend a significant event at a place of public worship or entering premises for a religious service—
      - (i) directly to the occupier of the premises, or
      - (ii) by electronically registering the person's contact details with Service NSW by means of a mobile phone or other device at the time the person enters the premises,
    - (b) in other cases—by electronically registering the person's contact details by means of a mobile phone or other device at the time the person enters the premises with—
      - (i) Service NSW, or
      - (ii) the occupier of the premises.
- Note.** For example, electronically registering a person's contact details may be by the use of a QR code or another electronic method that records the person's name, telephone number or email address and the time at which the person entered the premises.
- (4) The Minister directs that the occupier of premises to whom a person's contact details are provided in the manner specified in subclause (3)(a)(i) or (b)(ii) must—
    - (a) keep, for at least 4 weeks, a record of the contact details, and
    - (b) on request, provide the record to the Chief Health Officer as soon as practicable, but no later than 4 hours, after the request is made, and
    - (c) ensure that a person is—
      - (i) responsible for requiring contact details to be provided in accordance with this clause, and
      - (ii) authorised to provide records to the Chief Health Officer under paragraph (b).
  - (5) If a significant event or religious service is held or conducted at an outdoor public place, other than a place specified in Schedule 3, Part 1, the person organising, conducting or otherwise officiating at the event or service is taken to be the occupier of the premises for the purposes of this clause.
  - (6) If a regional agricultural show or agricultural field day is conducted at an outdoor public place, other than a place specified in Schedule 3, Part 1, the organiser of the regional agricultural show or agricultural field day is taken to be the occupier of the premises for the purposes of this clause.
  - (7) If a person required under this clause to provide contact details by electronic registration cannot complete the electronic registration because of age, disability or an inability to speak or comprehend the language used by the electronic registration device, another person may complete the registration on the person's behalf.
  - (8) If a person is required under this clause to provide contact details by electronic registration but, because of unexpected circumstances, it is not possible to electronically register contact details—

- (a) the person may provide the contact details directly to the occupier of the premises, and
- (b) the occupier of the premises is to electronically register the contact details within 12 hours.

**Note.** Examples of unexpected circumstances for the purposes of this clause are a failure of internet service or a breakdown of all of the occupiers computers or other devices.

- (9) However, this clause does not apply to the occupier of premises other than a gymnasium, a nightclub or a hospitality venue that is not a take away food or drink premises if—
  - (a) the premises is wholly contained within, and is only accessible through, another premises (the *main premises*), and
  - (b) the occupier of the main premises is required to keep a record of the contact details of persons entering the main premises in accordance with this clause.
- (10) In this clause—

*contact details*, of a person who entered premises mentioned in subclause (1), means—

  - (a) the person’s name, and
  - (b) the person’s telephone number or email address, and
  - (c) the time at which the person entered the premises.

### 37 Direction of Minister concerning information exchange

- (1) The Minister directs that a government sector agency or a NSW Minister (the *first agency*) is authorised to collect information from, or use or disclose information to, a related agency if the first agency considers it necessary to do so for the purposes of protecting the health or welfare of members of the public during the COVID-19 pandemic.
- (2) In this clause—

*government sector agency* has the same meaning as in the *Government Sector Employment Act 2013*.

*information* includes personal information or health information.

*NSW Minister* means a Minister of the State.

*related agency* means—

  - (a) a government sector agency or NSW Minister, or
  - (b) an agency or Minister of the Commonwealth or another State or Territory.

## Part 4 Miscellaneous

### 38 Exemptions

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

### 39 Repeal

The *Public Health (COVID-19 Restrictions on Gathering and Movement) Order (No 6) 2020* is repealed on the commencement of this Order.

### 40 Savings

- (1) 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.
- (2) If, immediately before the commencement of this Order, a person was required to keep a record of a person's name and contact details under the repealed Order, that requirement continues under this Order as if the repealed Order remained in force.
- (3) If, immediately before the commencement of this Order, an exemption granted by the Minister under the repealed Order was in force, that exemption continues as if it were granted under this Order.
- (4) A delegation given for a provision of the repealed Order continues to have effect as a delegation for the corresponding provision of this Order.
- (5) In this clause—  
**repealed Order** means the *Public Health (COVID-19 Restrictions on Gathering and Movement) Order (No 6) 2020*.

## Schedule 1 Premises and events requiring COVID-19 Safety Plan

Clauses 7(a), 16(a), 18(a), 22(a), 26(a), 29(4)(c)(i), 30(2)(a) and 34(a)

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Item</b>	<b>Premises or event</b>	<b>Checklist</b>	<b>Approval date</b>
1	Amusement centres	Theme parks and amusement centres	4 December 2020
2	Aquariums	Zoos, reptile parks and aquariums	4 December 2020
3	Business premises that are used for auction houses, other than clearing houses	Auction and open houses	4 December 2020
4	Business premises that are used for betting agencies	Betting agencies	4 December 2020
5	Business premises that are used for nail salons, beauty salons, waxing salons, tanning salons, spas, tattoo parlours and massage parlours	Beauty and other services	4 December 2020
6	Caravan parks and camping grounds	Caravan parks and camping grounds	4 December 2020
7	Casinos	Pubs and clubs (including small bars, cellar doors, breweries, distilleries, casinos and karaoke bars)	4 December 2020
8	Community centres	Community centres and halls	4 December 2020
9	Community sporting activities	Community sporting competitions and full training activities	4 December 2020
10	Controlled outdoor public gatherings	Controlled outdoor events	4 December 2020
11	Crematoria	General	4 December 2020
12	Drive-in cinemas	Cinemas, theatres and concert halls (including drive-in cinemas)	4 December 2020
13	Entertainment facilities	Cinemas, theatres and concert halls (including drive-in cinemas)	4 December 2020
14	Food and drink premises	Restaurants and cafes (including food courts and other food and drink premises)	4 December 2020
15	Food courts	Restaurants and cafes (including food courts and other food and drink premises)	4 December 2020
16	Function centres	Function centres	4 December 2020
17	Funeral homes	General	4 December 2020

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Item</b>	<b>Premises or event</b>	<b>Checklist</b>	<b>Approval date</b>
18	Funerals and memorial services and gathering after funerals and memorial services	Funerals, memorial services and wakes	4 December 2020
19	Gymnasiums	Indoor gymnasiums	4 December 2020
20	Information and education facilities (other than libraries)	Museums and galleries	4 December 2020
21	Libraries	Libraries	4 December 2020
22	Markets	Non-food markets	4 December 2020
23	Micro-breweries, small distilleries holding a drink on-premises authorisation under the <i>Liquor Act 2007</i> or cellar door premises	Pubs and clubs (including small bars, cellar doors, breweries, distilleries, casinos and karaoke bars)	4 December 2020
24	Outdoor rehearsals or performances	Outdoor gatherings for rehearsal and performance	4 December 2020
25	Nightclubs	Pubs and clubs (including small bars, cellar doors, breweries, distilleries, casinos and karaoke bars)	4 December 2020
26	Party buses	Commercial vessels (including tours, functions, parties or similar recreational activities) and party buses	4 December 2020
27	Places of public worship and religious services on other premises	Places of worship and religious gatherings	4 December 2020
28	Properties operated by the National Trust or the Historic Houses Trust	Museums and galleries	4 December 2020
29	Protests or demonstrations about governmental or political matters	Outdoor protests	4 December 2020
30	Public swimming pools (other than natural swimming pools)	Swimming pools	4 December 2020
31	Pubs, small bars and registered clubs	Pubs and clubs (including small bars, cellar doors, breweries, distilleries, casinos and karaoke bars)	4 December 2020
32	Recreation facilities (indoor) (other than gymnasiums)	Indoor recreation facilities (including health and dance studios and martial arts training facilities)	4 December 2020
33	Recreation facilities (major) (other than theme parks)	Major recreation facilities, stadiums, showgrounds, racecourses	4 December 2020
34	Regional agricultural shows or agricultural field days	Regional agricultural shows	4 December 2020
35	Sex on premises venues, being restricted premises where sex between patrons is permitted on the premises	Sex on premises	4 December 2020

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Item</b>	<b>Premises or event</b>	<b>Checklist</b>	<b>Approval date</b>
36	Sex services premises	Sex services	4 December 2020
37	Strip clubs	Strip clubs	4 December 2020
38	Theme parks	Theme parks and amusement centres	4 December 2020
39	Vessels used for hosting functions or for commercial tours	Commercial vessels (including tours, functions, parties or similar recreational activities) and party buses	4 December 2020
40	Wedding services and gatherings after wedding services	Wedding ceremonies and receptions	4 December 2020
41	Zoological parks and reptile parks	Zoos, reptile parks and aquariums	4 December 2020

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## Schedule 2 Exempted gatherings

Clauses 9(2)(i), 20(b), 24(b), 28(b), 29(3)(d), and 30(6)(b)

- 1 a gathering at an airport that is necessary for the normal business of the airport
- 2 a gathering for the purposes of or related to transportation, including in vehicles or at truck stops, stations, platforms or stops or other public transportation facilities but not a gathering on a vehicle being used as a party bus
- 3 a gathering at a hospital or other medical or health service facility that is necessary for the normal business of the facility
- 4 a gathering for the purposes of emergency services, including the provision of training by an emergency service
- 5 a gathering at a prison, correctional facility, youth justice centre or other place of custody
- 6 a gathering at a disability or aged care facility that is necessary for the normal business of the facility
- 7 a gathering at a court or tribunal
- 8 a gathering at Parliament for the purpose of its normal operations
- 9 a gathering at a supermarket, market that predominately sells food, grocery store or shopping centre (but not a retail store in a shopping centre other than a supermarket, market that predominately sells food or grocery store) that is necessary for the normal business of the supermarket, market, store or centre
- 10 a gathering at an office building, farm, factory, warehouse, commercial fishing operation or mining or construction site or on a commercial vessel (excluding vessels providing tours or hosting functions) that is necessary for the normal operation of the tenants within the building, farm, factory, warehouse, commercial fishing operation or site or of the commercial vessel
- 11 a gathering at a school, university or other educational institution or child care facility that is necessary for the normal business of the school, university, institution or facility but does not include a school event that involves members of the community in addition to staff and students
- 12 a gathering at a hotel, motel or other accommodation facility that is necessary for the normal operation of accommodation services at that hotel, motel or other facility
- 13 a gathering at an outdoor space for the purposes of transiting through the place  
**Example.** Pitt St Mall
- 14 a gathering to provide a service to assist vulnerable members of the public, including, for example, a food bank or a service providing for the needs of homeless persons
- 15 a gathering at premises that is necessary to provide the services of an early education and care facility

## Schedule 3 Premises requiring electronic entry records

Clause 36(1), (5) and (6)

### Part 1 Premises

- 1 Amusement centres
- 2 Aquariums
- 3 Business premises that are used for auction houses, other than clearing houses
- 4 Business premises that are used for nail salons, beauty salons, hairdressing salons, waxing salons, tanning salons, spas, tattoo parlours and massage parlours
- 5 Crematoria
- 6 Drive-in cinemas
- 7 Entertainment facilities
- 8 Hospitality venues as follows—
  - (a) Casinos
  - (b) Food and drink premises, other than food courts—only for a person entering the premises to consume food or drink on the premises and persons who are staff and contractors
  - (c) Micro-breweries, small distilleries holding a drink on-premises authorisation under the *Liquor Act 2007* and cellar door premises—only for a person entering the premises to consume food or drink on the premises and persons who are staff and contractors
  - (d) Pubs, small bars and registered clubs—for persons entering the premises, but not if the person is entering the premises solely for the purpose of collecting food or drink to consume off the premises
- 9 Function centres
- 10 Funeral homes
- 11 Information and education facilities (other than libraries)
- 12 Nightclubs
- 13 Party buses
- 14 Properties operated by the National Trust or the Historic Houses Trust
- 15 Public swimming pools
- 16 Recreation facilities (indoor)
- 17 Recreation facilities (major)
- 18 Sex on premises venues, being restricted premises where sex between patrons is permitted on the premises
- 19 Sex services premises

- 20 Strip clubs
- 21 Vessels used for hosting functions or for commercial tours
- 22 Zoological parks and reptile parks

**Part 2 Premises at which the following events are being held**

- 23 Controlled outdoor public gatherings
- 24 Regional agricultural show or agricultural field day
- 25 Funerals and memorial services and gatherings after funerals and memorial services
- 26 Wedding services and gatherings after wedding services

**Note.** Under clause 36(3)(a) electronic recording of entry is not mandatory for persons entering premises to attend a significant event at a place of public worship or entering premises for a religious service.



New South Wales

# Public Health (COVID-19 Sydney New Year's Eve Arrangements) Order 2020

under the

Public Health Act 2010

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

Dated 5 December 2020.

BRAD HAZZARD, MP  
Minister for Health and Medical Research

## Explanatory note

The object of this Order is to impose certain restrictions concerning gatherings for the purposes of the celebration of 2020 New Year's Eve in Sydney.

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## Public Health (COVID-19 Sydney New Year's Eve Arrangements) Order 2020

under the

Public Health Act 2010

### Part 1 Preliminary

#### 1 Name of Order

This Order is the *Public Health (COVID-19 Sydney New Year's Eve Arrangements) Order 2020*.

#### 2 Commencement

This Order commences at the beginning of 7 December 2020.

#### 3 Interpretation

(1) In this Order—

**authorised to enter a public place** within the restricted zone—see clause 5.

**declared zone** means the area indicated on the NYE Sydney Map as being within the declared zone.

**entry pass** means a permit issued by Service NSW for the purposes of this Order, whether issued in paper or electronic form.

**event** includes a function.

**Gathering and Movement Order** means the *Public Health (COVID-19 Restrictions on Gathering and Movement) Order (No 7) 2020*.

**NYE period** means the period—

(a) commencing at 5 pm on 31 December 2020, and

(b) ending at 5 am on 1 January 2021.

**NYE Sydney Map** means the Public Health (COVID-19 Sydney New Year's Eve Arrangements) Map (No 1) 2020 approved by the Minister on the making of this Order.

**place of residence** includes the premises where a person is living or staying and a garden, yard, passage, stairs, garage, outhouse or other area or thing attached to, or used in connection with, the premises.

**public place** has the same meaning as in the *Summary Offences Act 1988*.

**registered NYE event** means an event held wholly or partly within the restricted zone that has been registered with Service NSW for the purposes of this Order.

**resident** of the restricted zone includes a person who is staying at a hotel or rented premises within the zone.

**restricted zone** means the area indicated on the NYE Sydney Map as being within the restricted zone.

**the Act** means the *Public Health Act 2010*.

**work** includes work done as a volunteer or for a charitable organisation.

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

- (2) In this Order—
- (a) a reference to the Gathering and Movement Order includes a reference to an order that remakes, replaces or consolidates, whether in whole or in part, the Gathering and Movement Order, and
  - (b) a reference to a provision of the Gathering and Movement Order includes a reference to a provision of an order mentioned in paragraph (a) that corresponds, or substantially corresponds, to the provision of the Gathering and Movement 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, which is a condition caused by the severe acute respiratory syndrome coronavirus 2 (SARS-COV-2),
- (b) COVID-19 is a potentially fatal condition and is highly contagious,
- (c) a number of cases of individuals with COVID-19 have now been confirmed in New South Wales and other Australian jurisdictions, including by means of community transmission, and there is an ongoing risk of continuing introduction of COVID-19 into the New South Wales community.

## Part 2 Restricted and declared zones

### 5 Direction of Minister not to be in public place in restricted zone without entry pass

- (1) The Minister directs that a person must not enter or remain in a public place within the restricted zone during the NYE period unless the person is authorised to enter the public place.
- (2) A person is **authorised to enter a public place** within the restricted zone if—
  - (a) the person belongs to any of the following classes of persons (the **relevant class**)—
    - (i) residents of the restricted zone,
    - (ii) attendees of a registered event within the restricted zone,
    - (iii) persons attending work within the restricted zone,
    - (iv) visitors to a resident's place of residence within the restricted zone, and
  - (b) the person holds a current entry pass for the relevant class.
- (3) A person is also **authorised to enter a public place** within the restricted zone if—
  - (a) the person is a dependant of a person (a **pass holder**) who holds a current entry pass to enter the zone, and
  - (b) the current entry pass notes on it the number of dependent persons who are allowed to accompany the pass holder, and
  - (c) the dependant person is accompanying the pass holder, and
  - (d) the number of dependant persons accompanying the pass holder does not exceed the number of dependants noted on the pass.

### 6 Direction of Minister to leave a public place in restricted zone or declared zone

- (1) The Minister directs that a person within the restricted zone or the declared zone during the NYE period must, if asked to do so by an authorised officer or police officer, leave the zone.
- (2) To avoid doubt, subclause (1) applies to a person who is authorised to enter a public place within the restricted zone or declared zone.
- (3) If the person who is asked to leave is a resident of the restricted zone or the declared zone, it is sufficient compliance with subclause (1) if the person returns to the person's place of residence as soon as is reasonably practicable after being asked to leave.

### 7 Directions of Minister about providing information

- (1) The Minister directs that a person must, if required to do so by an authorised officer or police officer during the NYE period, provide information, including photo identification, to allow a decision to be made about whether the person is authorised to enter or remain in a public place within the restricted zone during the NYE period.
- (2) The Minister also directs that a person who provides information in response to a requirement under this clause must ensure that the information is true and accurate.
- (3) A person provides sufficient information in response to a requirement under this clause about whether the person is authorised to enter a public place within the restricted zone during the NYE period if the person produces—
  - (a) a current entry pass for inspection by the authorised officer or police officer stating that the person is authorised to enter the public place, and
  - (b) for a person attending a registered NYE event if requested by the authorised officer or police officer—the entry ticket for the event issued to the person, and

- (c) if requested by the authorised officer or police officer—photographic identification to verify the person is the holder of the pass.

## **Part 3 Miscellaneous**

### **8 Relationship of Order with Gathering and Movement Order**

- (1) Except as provided by this clause, a person within the restricted zone or declared zone during the NYE period must continue to comply with any directions applicable to the person under the Gathering and Movement Order.
- (2) Clause 30(5) of the Gathering and Movement Order does not apply within the restricted zone or declared zone during the NYE period.

### **9 Exemptions**

- (1) This Order does not prevent the following persons from entering or remaining within the restricted zone or declared zone during the NYE period—
  - (a) a person who is providing law enforcement or emergency services within the zone,
  - (b) a person who is responding in some other way to an emergency within the zone.
- (2) 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.

### **10 Repeal of Order**

This Order is repealed at the beginning of 2 January 2021.