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New South Wales

# Public Health (COVID-19 Restrictions on Gathering and Movement) Order (No 2) 2020

under the

Public Health Act 2010

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

Dated, this 14th day of May 2020.

BRAD HAZZARD, MP  
Minister for Health and Medical Research

## Explanatory note

The object of this Order is to revoke and remake the *Public Health (COVID-19 Restrictions on Gathering and Movement) Order 2020* to ease certain restrictions.

In particular, this Order makes changes—

- (a) to require an employer to allow an employee to work at the person's place of residence where it is reasonably practicable to do so, and
- (b) to provide that, in general, persons may participate in gatherings of not more than 10 persons in public places (rather than 2 persons), and
- (c) to allow persons to participate in a gathering for a wedding at which there are no more than 10 persons (excluding the persons being married, the persons necessary for the conduct of, or assisting in the conduct of, the service and one photographer or one videographer or both), and
- (d) to allow persons to participate in gatherings for indoor funeral or memorial services at which there are no more than 20 persons and outdoor funeral or memorial services at which there are no more than 30 persons (excluding the persons necessary for the conduct of, or assisting in the conduct of, the service such as the funeral celebrant or minister of religion and funeral directors), and
- (e) to allow persons to participate in a gathering for a religious service at which there are no more than 10 persons (excluding the persons necessary for the conduct of, or assisting in the conduct of, the service), and
- (f) to require contact information to be recorded in relation to those wedding, funeral, memorial or religious services, and
- (g) to allow food and drink premises (such as cafes, restaurants, pubs and registered clubs) to be open to the public for the purpose of selling food and drinks, for not more than 10 persons at any time, to consume on the premises (but only if any liquor sold is sold with or ancillary to food served in an eating area on the premises), and

- (h) to allow food and drink premises (such as cafes, restaurants, pubs and registered clubs) to be open to the public to be used as a venue for weddings or funeral or memorial services at which no more than the number of persons permitted at those services are present, and
- (i) to provide that outdoor public swimming pools, outdoor playground equipment in public places, outdoor gymnasium equipment in public places and skate parks no longer must be kept closed, and
- (j) to require that an outdoor public swimming pool permit no more than 10 persons to swim in the pool at any time, and
- (k) to require each person who is at any time an adult member of a household—
  - (i) to prevent more than 5 visitors to enter or stay in the place of residence of the household at any one time, or
  - (ii) to take reasonable steps to ensure that no more than 5 visitors are present in the place of residence of the household at any one time, and
- (l) to provide that certain persons are not to be counted for the purpose of that 5 visitor per place of residence limit, and
- (m) to continue the prohibition on taking holidays in regional areas of the State, and
- (n) to make other minor amendments, including in relation to record keeping and machinery and savings matters.

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.

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## Public Health (COVID-19 Restrictions on Gathering and Movement) Order (No 2) 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 2) 2020*.

#### 2 Commencement

This Order commences at the beginning of 15 May 2020.

**Note.** Section 7(5) of the Act provides that, unless it is earlier revoked, an order under that section expires at the end of 90 days after it was made or on such earlier date as may be specified in the order. Accordingly, this Order will expire at the end of 14 August 2020 unless it is revoked earlier.

#### 3 Definitions

(1) In this Order—

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

**indoor space** means an area, room or other premises that is or are substantially enclosed by a roof and walls, regardless of whether the roof or walls or any part of the roof or walls are—

- (a) permanent or temporary, or
- (b) open or closed.

**Note.** The *Public Health Act 2010* defines premises to include any land, temporary structure, vehicle or vessel.

**outdoor space** means a space that is not an indoor space.

**parent**, in relation to a child, includes a person who is not a parent of the child, but who has parental responsibility for, or who has care of, the child.

**place of residence** includes the premises where a person lives together with any 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*.

**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) Notes included in this Order do not form part of this Order.

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

It is noted that 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 international 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, including by means of community transmission.

## Part 2 Work and gatherings

### 5 Direction of Minister concerning place of work

The Minister directs that an employer must allow an employee to work at the person's place of residence where it is reasonably practicable to do so.

### 6 Directions of Minister concerning gatherings of more than 10 persons

- (1) The Minister directs that a person must not participate in a gathering in a public place of more than 10 persons.
- (2) Subclause (1) does not apply to the following—
  - (a) a gathering referred to in Schedule 1,
  - (b) a gathering of persons for the purposes of work,
  - (c) a gathering of persons all of whom are members of the same household,
  - (d) a gathering to facilitate a move to a new place of residence (including a business moving to new premises),
  - (e) a gathering to provide care or assistance to a vulnerable person,
  - (f) a gathering to provide emergency assistance,
  - (g) a gathering necessary for the person to fulfil a legal obligation (including attending a court or tribunal, satisfying bail requirements or participating in legal proceedings),
  - (h) 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 the real property,
  - (i) 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 purposes of the sale or lease of real property,
  - (j) a gathering of persons at premises for the purposes of conducting an auction permitted under clause 7(4),
  - (k) a gathering at premises in the circumstances referred to in clause 7(2)(a).
- (3) Subclause (1) also does not apply to a person participating in a gathering for the purpose of one of the following services—
  - (a) for a wedding service at which there are no more than 10 wedding guests (excluding the persons being married, the persons necessary for the conduct of, or assisting in the conduct of, the service and one photographer or one videographer or both),
  - (b) for an indoor funeral or memorial service at which there are no more than 20 persons (excluding the persons necessary for the conduct of, or assisting in the conduct of, the service such as the funeral celebrant or minister of religion and funeral directors),
  - (c) for an outdoor funeral or memorial service at which there are no more than 30 persons (excluding the persons necessary for the conduct of, or assisting in the conduct of, the service such as the funeral celebrant or minister of religion and funeral directors),
  - (d) for a religious service at which there are no more than 10 persons (excluding the persons necessary for the conduct of, or assisting in the conduct of, the service).
- (4) The Minister directs that—
  - (a) a person participating in a wedding, funeral or memorial service or religious service referred to in subclause (3) must provide the person's name and

- contact details (including a contact telephone number) to the relevant person for the service, and
- (b) a relevant person for a wedding, funeral or memorial service or religious service referred to in subclause (3) must record the names and contact details (including contact telephone numbers) of all the persons at the service.
- (5) The Minister directs that —
- (a) a person participating in a gathering for private worship at a place of public worship must provide the person's name and contact details (including a contact telephone number) to the occupier of the place of public worship, and
- (b) the occupier of the place of public worship must record the names and contact details (including contact telephone numbers) of all the persons participating in the gathering.
- (6) In this clause—
- place of public worship*** has the same meaning as it has in the Standard Instrument set out in the *Standard Instrument (Local Environmental Plans) Order 2006*.
- relevant person***, for a service, means—
- (a) in relation to a service conducted in an indoor space—the occupier of the premises, or
- (b) in relation to a service conducted in an outdoor space—the person conducting the service.



## Part 3 Closure of certain premises

### 7 Directions of Minister concerning closure of certain premises

- (1) The Minister directs that the following must not be open to members of the public except as provided in this clause—
- (a) pubs and registered clubs, except for the purpose of providing accommodation,
  - (b) entertainment facilities,  
**Note.** The streaming of a live performance would not be prohibited as the venue is not open to the public.
  - (c) amusement centres,
  - (d) casinos, except for the purpose of providing accommodation,
  - (e) micro-breweries or small distilleries holding a drink on-premises authorisation under the *Liquor Act 2007* or cellar door premises,
  - (f) recreation facilities (indoor),
  - (g) places of public worship, except for the following purposes—
    - (i) conducting a wedding, funeral or memorial service or religious service at which no more than the number of persons permitted at the gathering for the service under clause 6(3) are on the premises,
    - (ii) private worship at which there are no more than 10 persons,
  - (h) business premises that are spas, nail salons, beauty salons, waxing salons, tanning salons, tattoo parlours or massage parlours (except for the retail sale of goods and gift vouchers, including gift vouchers for services redeemable at a later date),
  - (i) business premises that are auction houses (except for conducting an auction for food supply, livestock, a fibre or crop auction or an auction of real property),
  - (j) business premises that are betting agencies,
  - (k) markets, but not markets that predominantly sell food,
  - (l) information and education facilities,
  - (m) caravan parks and camping grounds, except for purposes of—
    - (i) accommodating permanent residents of the caravan park or camping ground, overnight travellers, persons working in the local area or other persons who have no other place of permanent residence or whose primary place of residence is temporarily unavailable, and
    - (ii) allowing visitors to visit persons referred to in subparagraph (i),
  - (n) sex services premises.
- (2) Despite subclause (1), food and drink premises, including food and drink premises within other premises referred to in subclause (1), may only be open to the public for the following purposes—
- (a) selling food or drinks for not more than 10 persons at any time to consume on the premises, but only if any liquor sold is sold with, or ancillary to, food served in an area for eating on the premises,
  - (b) selling food or drinks for persons to consume off the premises,
  - (c) if the premises are part of hotel or motel accommodation, including in conjunction with a casino or pub, providing food or drinks to persons using that accommodation to consume in their rooms,

- (d) being used as a venue for a wedding or a funeral or memorial service for no more than the number of persons permitted at the gathering for the service under clause 6(3).
- (3) The Minister directs that the following must be closed to members of the public—
  - (a) a property (other than a retail shop) operated by the National Trust or the Historic Houses Trust,
  - (b) a gaming lounge,
  - (c) a strip club,
  - (d) a community centre,
  - (e) a public indoor swimming pool,
  - (f) a public outdoor swimming pool unless no more than 10 persons are permitted to swim in the pool at any time.
- (4) The Minister directs that a person must not conduct an auction at which persons attend in person (except for an auction for food supply, livestock, a fibre or crop auction or an auction of real property).
- (5) Despite subclause (1), micro-breweries and small distilleries holding a drink on-premises authorisation under the *Liquor Act 2007* and cellar door premises, may be open to the public, but only for the following purposes—
  - (a) selling food or drinks for not more than 10 persons at any time to consume on the premises, but only if any liquor sold is sold with, or ancillary to, food served in an area for eating on the premises, or
  - (b) selling food or drinks for persons to consume off the premises, or
  - (c) being used as a venue for a wedding or a funeral or memorial service for no more than the number of persons permitted at the gathering for the service under clause 6(3).
- (6) The Minister directs that an occupier of premises must ensure that any tables and chairs within a food court are not available for use for the consumption of food or drinks.
- (7) Nothing in this clause prevents the use of premises—
  - (a) to provide a service to assist vulnerable members of the public, for example a food bank or a service providing for the needs of homeless persons, or
  - (b) as an early education and care facility.
- (8) Subclause (1)(m) does not apply to a person who was staying at a caravan park or camping ground immediately before 26 March 2020 and who is continuing to stay at the caravan park or camping ground under a booking—
  - (a) that was made before that date, and
  - (b) that has not been extended after that date.
- (9) A word or expression used in this clause 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.

**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.

**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.

**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 a restaurant or cafe, take away food and drink premises, a pub or a small bar.

**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.

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

## Part 4 Obligations of occupiers and operators of premises

**Note.** The direction in this Part prevents (subject to some exceptions) occupiers and operators of premises in New South Wales from allowing persons to enter or stay on the premises to avoid overcrowding. However, Clause 6 applies to individuals in public places and (subject to some exceptions) prevents them from gathering in groups of more than 10 persons.

### 8 Directions of Minister concerning persons allowed on premises

- (1) The Minister directs that a person who is the occupier or operator of premises (other than a place of residence) must not—
  - (a) for premises comprised of an outdoor space—allow 500 or more persons to enter or stay on the premises at the same time, or
  - (b) for premises comprised of an indoor space—allow 100 or more persons to enter or stay on the premises at the same time, or
  - (c) allow persons to enter or stay on the premises (whether comprised of an outdoor or indoor space) if the size of the premises is insufficient to ensure there is 4 square metres of space for each person on the premises.

**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.

This clause does not prevent the conduct of events (such as sporting or racing events) subject to the limits referred to in subclause (1).

- (2) The Minister directs that each person who is at any time an adult member of a household—
  - (a) must not allow more than 5 visitors to enter or stay in the place of residence of the household at any one time, or
  - (b) must take reasonable steps to ensure that no more than 5 visitors are present in the place of residence of the household at any one time.
- (3) Subject to subclause (4), subclause (1) does not apply to a gathering referred to in Schedule 1.
- (4) Subclause (1)(c) applies to a gathering referred to in item 10 of Schedule 1.
- (5) A person is not to be counted as a *visitor* for the purposes of subclause (2) if—
  - (a) the person is a member of the household of the place of residence visited, or
  - (b) the person is at the place of residence for a purpose specified in Schedule 2.

## **Part 5 Holidays in regional areas**

### **9 Direction of Minister concerning holidays in regional areas**

The Minister directs that a person must not take a holiday in a regional area.

## Part 6 Records and exchanges of information

### 10 Keeping records

The Minister directs that a person who is required to record information by this Order must—

- (a) keep those records for at least a period of 4 weeks, and
- (b) on request, provide those records to the Chief Health Officer.

### 11 Direction of the 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** means a government sector agency within the meaning of 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 7 Miscellaneous**

### **12 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.

### **13 Revocation of existing Order and savings**

- (1) The *Public Health (COVID-19 Restrictions on Gathering and Movement) Order 2020* is revoked.
- (2) Any act, matter or thing that, immediately before the revocation of the *Public Health (COVID-19 Restrictions on Gathering and Movement) Order 2020*, had effect under that Order continues to have effect under this Order.

## Schedule 1 Essential gatherings

**Note.** The gatherings listed in this Schedule, with a partial exception, are excluded from the direction set out in clause 8 that occupiers and operators of premises (other than places of residence) must not—

- (a) for outdoor spaces—allow 500 or more persons to enter or stay on the premises at the same time, or
- (b) for indoor spaces—allow 100 or more persons to enter or stay on the premises at the same time, or
- (c) allow persons to enter or stay on the premises if the size of the premises is insufficient to ensure there is 4 square metres of space for each person on the premises.

The direction relating to ensuring 4 square metres of space for each person on premises does apply to a gathering at a retail store (other than a supermarket, market that predominately sells food or grocery store) that is necessary for the normal business of the store.

- 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
- 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
- 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 a retail store (other than a supermarket, market that predominately sells food or grocery store) that is necessary for the normal business of the store
- 11 a gathering at an office building, farm, factory, warehouse, commercial fishing operation or mining or construction site that is necessary for the normal operation of the tenants within the building, farm, factory, warehouse, commercial fishing operation or site
- 12 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
- 13 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
- 14 a gathering at an outdoor space for the purposes of transiting through the place  
**Example.** Pitt Street Mall



## Schedule 2 Exempt purposes for visits

**Note.** Clause 8(2) of the Order provides that each person who is, at any time, an adult member of a household—

- (a) must not allow more than 5 visitors to enter or stay in the place of residence of the household at any one time, or
- (b) must take reasonable steps to ensure that no more than 5 visitors are present in the place of residence of the household at any one time.

A person is not to be counted as a **visitor** under that subclause if the person is at a place of residence for a purpose specified in this Schedule.

- 1 for the purpose of work
- 2 for childcare
- 3 to fulfil carers' responsibilities
- 4 to provide care or assistance (including personal care) to a vulnerable person
- 5 to participate in a gathering for a wedding or funeral or memorial service at which no more than the number of persons permitted at the gathering under clause 6(3) are on the premises
- 6 to give effect to new or existing arrangements for spending time with, and providing contact between, parents and children under the age of 18 or between siblings
- 7 to assist a person moving to a new place of residence
- 8 avoiding injury or illness or to escape a risk of harm
- 9 for emergencies and compassionate reasons

Reference number:(n2020-1379)