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New South Wales

# Public Health (COVID-19 Air Transportation Quarantine) Order (No 2) 2021

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 4 June 2021.

BRAD HAZZARD, MP  
Minister for Health and Medical Research

## Explanatory note

The object of this Order is to repeal and remake, with some changes, the *Public Health (COVID-19 Air Transportation Quarantine) Order 2021*.

## Contents

	Page
<b>Part 1 Preliminary</b>	
1 Name of Order	3
2 Commencement	3
3 Interpretation	3
4 Grounds for concluding there is a risk to public health	3
5 Quarantine period	4
<b>Part 2 Quarantine</b>	
6 Directions—persons arriving in NSW by aircraft, including flight crew members	5
7 Directions—persons arriving from New Zealand	5
8 Directions—persons arriving from New Zealand COVID-19 hotspot	5
9 Directions—persons arriving in NSW by land	6
10 Directions—entering, remaining and departing quarantine or medical facilities	6
11 Directions—testing of designated quarantine facility workers	7
12 Directions—testing of designated transportation providers	8
13 Directions—testing of designated airport workers	8
14 Directions—declared flight crew members	9
15 Direction—declared flight crew members' employers	10
16 Directions—interstate flight crew members	11
17 Direction—interstate flight crew members' employers	12
18 Designation of premises as quarantine facility	12
19 Direction—advice provided by Chief Health Officer	12
<b>Part 3 Records and exchange of information</b>	
20 Directions of Minister concerning persons providing contact details	13
<b>Part 4 Miscellaneous</b>	
21 Relationship of Order with Self-Isolation Order	14
22 Exemptions	14
23 Repeal and savings	14
<b>Schedule 1 Dictionary</b>	<b>15</b>

## Public Health (COVID-19 Air Transportation Quarantine) Order (No 2) 2021

under the

Public Health Act 2010

### Part 1 Preliminary

#### 1 Name of Order

This Order is the *Public Health (COVID-19 Air Transportation Quarantine) Order (No 2) 2021*.

#### 2 Commencement

This Order commences at the beginning of 7 June 2021.

#### 3 Interpretation

- (1) The Dictionary in Schedule 1 defines words used in this Order.

**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 Maritime Quarantine Order includes a reference to an order that remakes, replaces or consolidates, whether in whole or in part, the Maritime Quarantine Order, and
- (b) a reference to a provision of the Maritime Quarantine Order includes a reference to a provision of an order mentioned in paragraph (a) that corresponds, or substantially corresponds, to the provision of the Maritime Quarantine Order, and
- (c) a reference to the Self-Isolation Order includes a reference to an order that remakes, replaces or consolidates, whether in whole or in part, the Self-Isolation Order, and
- (d) a reference to a provision of the Self-Isolation Order includes a reference to a provision of an order mentioned in paragraph (c) that corresponds, or substantially corresponds, to the provision of the Self-Isolation Order.

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

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

The basis for concluding 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) there is an ongoing risk of—
  - (i) continuing introduction of COVID-19 into the New South Wales community, or
  - (ii) transmission of COVID-19 in the New South Wales community.

## 5 Quarantine period

- (1) The *quarantine period* for a person arriving in New South Wales is determined, for the purposes of this Order, in accordance with this clause.
- (2) The quarantine period starts when the person arrives in New South Wales.
- (3) The quarantine period ends if—
  - (a) at least 14 full days have passed since the person arrived in New South Wales, and
  - (b) the Chief Health Officer is satisfied that, having regard to any testing for COVID-19, the person does not pose a risk of infecting another person with COVID-19.
- (4) However, for a person staying at a quarantine facility or medical facility, the quarantine period ends only if, in addition to subclause (3), the Chief Health Officer is satisfied that—
  - (a) the person will be tested for COVID-19 2 days after leaving the facility, or
  - (b) both of the following apply—
    - (i) the person cannot, due to circumstances beyond the person's control, be tested for COVID-19 2 days after leaving the facility,
    - (ii) the person will be tested for COVID-19 as soon as practicable after leaving the facility.
- (5) Otherwise, if the quarantine period has not ended earlier in accordance with this clause, the quarantine period for a person ends when 24 full days have passed since the person arrived in New South Wales.

## Part 2 Quarantine

### 6 Directions—persons arriving in NSW by aircraft, including flight crew members

- (1) The Minister directs that a relevant person must do one of the following as determined by the Commissioner of Police—
  - (a) go directly to a quarantine facility,
  - (b) go directly to a medical facility for treatment.
- (2) The Minister directs that a relevant person must comply with any determination of the Commissioner of Police in relation to the person's transit at the airport and travel to the quarantine facility or medical facility.
- (3) The directions under this clause do not apply to a declared flight crew member or an interstate flight crew member within the meaning of clause 16.

### 7 Directions—persons arriving from New Zealand

- (1) This clause applies to a person who arrives in Australia from New Zealand.
- (2) The Minister directs that a person to whom this clause applies must give a written declaration to a member of the NSW Health Service about whether the person has been in a country other than Australia or New Zealand in the previous 14 days.
- (3) The Minister directs that a person to whom this clause applies must provide the person's contact details to a member of the NSW Health Service.
- (4) The Minister directs that a person who provides information under this clause must ensure the information is true and accurate.
- (5) In this clause—

*contact details*, of a person, means—

  - (a) the person's name, and
  - (b) the person's telephone number or email address.

### 8 Directions—persons arriving from New Zealand COVID-19 hotspot

- (1) This clause applies to a person—
  - (a) who arrives in Australia from New Zealand, and
  - (b) who is not a relevant person, and
  - (c) who—
    - (i) has been in a New Zealand COVID-19 hotspot in the previous 14 days, or
    - (ii) is assessed by the Chief Health Officer to pose an unacceptable public health risk of transmission of COVID-19.
- (2) The Minister directs that a person to whom this clause applies must do one of the following as determined by the Chief Health Officer—
  - (a) go directly to a quarantine facility,
  - (b) go directly to a medical facility for treatment,
  - (c) immediately leave Australia by air.
- (3) The Minister directs that a person who is the subject of a direction by the Chief Health Officer under subclause (2) must comply with any determination of the Commissioner of Police in relation to the person's transit at the airport and travel.

**9 Directions—persons arriving in NSW by land**

- (1) This clause applies to a person who—
  - (a) arrives in New South Wales by land, and
  - (b) has, within 14 days immediately before the person’s arrival, been in a country other than Australia or New Zealand, and
  - (c) is assessed by the Chief Health Officer to pose an unacceptable public health risk of transmission of COVID-19.
- (2) The Minister directs that a person to whom this clause applies must do one of the following as determined by the Chief Health Officer—
  - (a) go directly to a quarantine facility,
  - (b) go directly to a medical facility for treatment.
- (3) The Minister directs that a person who is the subject of a direction by the Chief Health Officer under subclause (2) must comply with a determination of the Chief Health Officer in relation to the person’s travel to the quarantine facility or medical facility.
- (4) The Minister directs that a person who is the subject of a direction by the Chief Health Officer under subclause (2) must—
  - (a) comply with the requirements of clause 10 as if the person were a quarantined person to whom a direction is given under clause 6 or 8, and
  - (b) while remaining at the facility, comply with any other conditions decided, or other directions given, by the Commissioner of Police.

**10 Directions—entering, remaining and departing quarantine or medical facilities**

- (1) The Minister directs that a quarantined person, other than a relevant flight crew member, to whom a direction is given under clause 6 or 8 must remain at the quarantine facility or medical facility, or another quarantine facility or medical facility as directed by the Commissioner of Police, during the quarantine period.
- (2) The Minister directs that a quarantined person who is a relevant flight crew member to whom a direction is given under clause 6 or 8 must remain at the quarantine facility or medical facility, or another quarantine facility or medical facility as directed by the Commissioner of Police, until the sooner of the following happens—
  - (a) the quarantine period ends,
  - (b) the person departs on an international flight, including an international flight that stops in another State or a Territory before leaving Australia, in circumstances where the person has—
    - (i) undergone a test for COVID-19 before leaving the airport on arrival in New South Wales, and
    - (ii) complied with any request of the Chief Health Officer to undergo testing for COVID-19 after leaving the airport and before the departure.
- (3) Despite subclauses (1) and (2), a quarantined person is not required to remain at a quarantine facility or medical facility if—
  - (a) the Commissioner directs otherwise, or
  - (b) there is an emergency that requires the person to leave the quarantine facility or medical facility.
- (4) A quarantined person who is not required to remain at a quarantine facility or medical facility under subclause (3)(b) must comply with any directions given by the Commissioner of Police in relation to the remainder of the quarantine period.

- (5) A quarantined person must, while remaining at a quarantine facility or medical facility during the quarantine period, comply with any conditions decided, or directions given, by the Commissioner of Police.
- (6) A quarantined person who is a relevant flight crew member must, while travelling to the airport or transiting at the airport for the purposes of departing on another flight that leaves New South Wales, comply with any directions given by the Commissioner of Police.
- (7) The Minister directs that the relevant flight crew member's employer must arrange appropriate transportation for the member for any travel under subclause (6).
- (8) Subject to the requirements specified in clause 11, a person must not enter a quarantine facility or a part of a medical facility being used to quarantine persons under a relevant Order unless the person is a permitted person.
- (9) A person at a quarantine facility or a part of a medical facility being used to quarantine persons under a relevant Order must not provide another person with access to the facility or the part of the facility unless the other person is a permitted person.
- (10) In this clause—  
***permitted person***, in relation to entering or accessing a quarantine facility or a part of a medical facility being used to quarantine persons under a relevant Order, means a person who is—
  - (a) a police officer, or
  - (b) entering or accessing at the direction of a police officer, or
  - (c) entering or accessing for the purposes of providing medical treatment or care to a person in the quarantine facility or a part of the medical facility, or
  - (d) entering or accessing for the purposes of complying with a direction applicable to the person under the Self-Isolation Order, or
  - (e) entering or accessing because of an emergency, or
  - (f) a person exercising functions or providing services necessary for the ordinary operation of the quarantine facility or medical facility.

***relevant Order*** means this Order or the Maritime Quarantine Order.

#### **11 Directions—testing of designated quarantine facility workers**

- (1) This clause applies to a ***designated quarantine facility worker***, being a person—
  - (a) who is a permitted person within the meaning of clause 10(10), definition of ***permitted person***, paragraph (a), (c) or (f) in relation to a quarantine facility, and
  - (b) who, in the course of the person's employment, exercises functions or provides services in relation to the quarantine facility, and
  - (c) who is specified in the NSW Testing Program as a person or a member of a class of persons to whom this clause applies.
- (2) The Minister directs that a designated quarantine facility worker must not exercise, or continue to exercise, functions or provide, or continue to provide, services in relation to a quarantine facility unless the worker is tested for COVID-19 in accordance with the requirements set out in the NSW Testing Program.

**Note—**

A person who is diagnosed with COVID-19 is required to self-isolate under other public health orders made by the Minister.

- (3) Without limiting the requirements that may be set out in the NSW Testing Program, the requirements may provide that a designated quarantine facility worker must be tested for COVID-19 while, rather than before, exercising the functions or providing the services.
- (4) The Minister directs that a designated quarantine facility worker who is not tested in accordance with subclause (2) must not enter, or remain at, a quarantine facility for the purposes of exercising functions or providing services in relation to the quarantine facility unless the worker is tested for COVID-19, whether at the facility or elsewhere.
- (5) Despite subclauses (2) and (4), the Minister directs that a designated quarantine facility worker—
  - (a) may enter, or exercise functions or provide services in relation to, a quarantine facility if otherwise directed by the Commissioner of Police or the Chief Health Officer, and
  - (b) must not enter, or exercise functions or provide services in relation to, a quarantine facility if the Chief Health Officer is satisfied the worker poses a risk of infecting another person with COVID-19.

## 12 Directions—testing of designated transportation providers

- (1) This clause applies to a *designated transportation provider*, being a person—
  - (a) who, in the course of the person’s employment, provides a transportation service for a relevant person directly to, or directly from, a quarantine facility or a medical facility, and
  - (b) who is specified in the NSW Testing Program as a person or a member of a class of persons to whom this clause applies.
- (2) The Minister directs that a designated transportation provider must not provide, or continue to provide, a transportation service referred to in subclause (1)(a) unless the provider is tested for COVID-19 in accordance with the requirements set out in the NSW Testing Program.

**Note—**  
A person who is diagnosed with COVID-19 is required to self-isolate under other public health orders made by the Minister.
- (3) Without limiting the requirements that may be set out in the NSW Testing Program, the requirements may provide that a designated transportation provider must be tested for COVID-19 while, rather than before, providing a transportation service referred to in subclause (1)(a).
- (4) Despite subclause (2), the Minister directs that a designated transportation provider—
  - (a) may provide a transportation service if otherwise directed by the Commissioner of Police or the Chief Health Officer, and
  - (b) must not provide a transportation service referred to in subclause (1)(a) if the Chief Health Officer is satisfied the provider poses a risk of infecting another person with COVID-19.

## 13 Directions—testing of designated airport workers

- (1) This clause applies to a *designated airport worker*, being a person—
  - (a) who, in the course of the person’s employment, exercises functions or provides services at an airport, and
  - (b) who is specified in the NSW Testing Program as a person or a member of a class of persons to whom this clause applies.

- (2) The Minister directs that a designated airport worker must not exercise, or continue to exercise, functions or provide, or continue to provide, services at an airport unless the worker is tested for COVID-19 in accordance with the requirements set out in the NSW Testing Program.

**Note—**

A person who is diagnosed with COVID-19 is required to self-isolate under other public health orders made by the Minister.

- (3) Without limiting the requirements that may be set out in the NSW Testing Program, the requirements may provide that a designated airport worker must be tested for COVID-19 while, rather than before, exercising the functions or providing the services.
- (4) The Minister directs that a designated airport worker who is not tested in accordance with subclause (2) must not enter, or remain at, an airport for the purposes of exercising functions or providing services at the airport unless the worker is tested for COVID-19, whether at the airport or elsewhere.
- (5) Despite subclauses (2) and (4), the Minister directs that a designated airport worker—
- (a) may enter, or exercise functions or provide services at, an airport if otherwise directed by the Commissioner of Police or the Chief Health Officer, and
  - (b) must not enter, or exercise functions or provide services at, an airport if the Chief Health Officer is satisfied the worker poses a risk of infecting another person with COVID-19.

**14 Directions—declared flight crew members**

- (1) This clause applies to a relevant flight crew member (a *declared flight crew member*) who—
- (a) is ordinarily resident in New South Wales, and
  - (b) has, before leaving the airport, undergone a test for COVID-19, and
  - (c) has, before leaving the airport, given a written declaration to a member of the NSW Health Service that includes the following—
    - (i) the member's full name and date of birth,
    - (ii) the address of the member's place of residence in New South Wales,
    - (iii) the member's telephone number or email address,
    - (iv) a statement that the member has not, within 14 days immediately before the member's arrival in New South Wales, been in contact with a person with COVID-19,
    - (v) a statement that the member does not have, and has not had within 72 hours immediately before the member's arrival in New South Wales, any symptoms of COVID-19,

**Examples—**

Symptoms of COVID-19 include a fever, sore throat, cough, shortness of breath or loss of taste or smell.

- (vi) a statement that no other person who ordinarily lives at the member's place of residence is a designated worker.
- (2) The Minister directs that a declared flight crew member who provides information under this clause must ensure the information is true and accurate.
- (3) The Minister directs that a declared flight crew member must go directly to, and stay at—
- (a) the member's residence until the sooner of the following happens—

- (i) the quarantine period ends,
    - (ii) the member departs on an international flight, including an international flight that stops in another State or a Territory before leaving Australia, in circumstances where the member has complied with any request of the Chief Health Officer to undergo testing for COVID-19 before the departure, or
  - (b) if the member elects to go to, and stay at, a quarantine facility—the quarantine facility as directed by the Commissioner of Police.
- (4) The Minister directs that, while subject of a direction under subclause (3), the declared flight crew member must do the following—
  - (a) not leave the residence except—
    - (i) to exercise functions that are essential for safety or for other regulatory reasons including, for example, flight simulation training or safety or security training, or
    - (ii) for the purposes of obtaining medical care or medical supplies, or
    - (iii) in an emergency situation,
  - (b) not permit any other person to enter the residence unless—
    - (i) the other person usually lives at the residence, or
    - (ii) the entry is for medical or emergency purposes, or
    - (iii) the entry is to a place, other than a dwelling, for the purpose of delivering food or essential items,
  - (c) comply with the NSW Health Air Transportation Guidelines.
- (5) The Minister directs that a declared flight crew member who goes to a quarantine facility must—
  - (a) comply with the requirements of clause 10 as if the member were a quarantined person who is a relevant flight crew member to whom a direction is given under clause 6 or 8, and
  - (b) while remaining at the facility, comply with any other conditions decided, or other directions given, by the Commissioner of Police.
- (6) The Minister directs that a flight crew member who leaves a quarantine facility for the purposes of departing on an international flight must give, in a form approved by the Chief Health Officer, the following details to a member of the NSW Health Service—
  - (a) the member's name,
  - (b) the member's telephone number or email address,
  - (c) the flight details for the flight.

#### **15 Direction—declared flight crew members' employers**

The Minister directs that an employer of a declared flight crew member to whom a direction is given under clause 14 must—

- (a) arrange appropriate transportation for the declared flight crew member for any travel under that clause to the member's residence, and
- (b) if, before the quarantine period ends, the declared flight crew member is departing Australia on a flight, arrange appropriate transportation for the member for any travel under that clause to the airport, and
- (c) ensure the declared flight crew member complies with any requirements in the NSW Health Air Transportation Guidelines in relation to the member's

transportation to, and accommodation at, the member's residence under this clause.

## 16 Directions—interstate flight crew members

- (1) In this clause—
- interstate flight crew member*** means a relevant flight crew member who—
- (a) is ordinarily resident in another State or Territory, and
  - (b) has, before leaving the airport, undergone a test for COVID-19, and
  - (c) has, before leaving the airport, given a written declaration to a member of the NSW Health Service that includes the following—
    - (i) the member's full name and date of birth,
    - (ii) the address of the member's place of residence in the other State or Territory,
    - (iii) the member's telephone number or email address,
    - (iv) a statement that the member has not, within 14 days immediately before the member's arrival in New South Wales, been in contact with a person with COVID-19,
    - (v) a statement that the member does not have, and has not had within 72 hours immediately before the member's arrival in New South Wales, any symptoms of COVID-19.

**Examples—**

Symptoms of COVID-19 include a fever, sore throat, cough, shortness of breath or loss of taste or smell.

***suitable transport*** means transport—

- (a) if travelling to the Australian Capital Territory—
    - (i) by private vehicle, or
    - (ii) by an aeroplane that has no passengers other than interstate flight crew members, or
  - (b) in all other cases—an aeroplane that has no passengers other than interstate flight crew members.
- (2) The Minister directs that an interstate flight crew member who provides information under this clause must ensure the information is true and accurate.
- (3) The Minister directs that an interstate flight crew member must go directly to—
- (a) the member's residence using suitable transport arranged by the member's employer, or,
  - (b) if the member elects to go to a quarantine facility—the quarantine facility as directed by the Commissioner of Police.
- (4) The Minister directs that an interstate flight crew member who goes to a quarantine facility must remain at the facility until—
- (a) the member departs New South Wales on suitable transport arranged by the member's employer in circumstances where the member has complied with any request of the Chief Health Officer to undergo testing for COVID-19 before the departure, or
  - (b) the Commissioner directs otherwise, or
  - (c) there is an emergency that requires the member to leave the quarantine facility.
- (5) The Minister directs that an interstate flight crew member who goes to a quarantine facility must—

- (a) comply with the requirements of clause 10 as if the member were a quarantined person who is a relevant flight crew member to whom a direction is given under clause 6 or 8, and
  - (b) while remaining at the facility, comply with any other conditions decided, or other directions given, by the Commissioner of Police.
- (6) The Minister directs that an interstate flight crew member who travels to the member's residence must comply with the Onward Domestic Travel of International Aircrew guideline when travelling to the member's residence.
- (7) The Minister directs that an interstate flight crew member who leaves a quarantine facility for the purposes of departing New South Wales on suitable transport arranged by the member's employer must give, in a form approved by the Chief Health Officer, the following details to a member of the NSW Health Service—
- (a) the member's name,
  - (b) the member's telephone number or email address,
  - (c) the vehicle registration details or flight details.

**17 Direction—interstate flight crew members' employers**

The Minister directs that an employer of an interstate flight crew member to whom a direction is given under clause 16(3), (4) or (6) must ensure the member complies with the Onward Domestic Travel of International Aircrew guideline when travelling to the member's residence.

**18 Designation of premises as quarantine facility**

The Commissioner of Police may designate, in writing, any premises or type of premises the Commissioner considers appropriate to be a quarantine facility for the purposes of this Order.

**19 Direction—advice provided by Chief Health Officer**

The Minister directs that the Commissioner of Police must, in the exercise of a function under this Order, have regard to any advice provided by the Chief Health Officer or a delegate of the Chief Health Officer for the purposes of this Order.

## Part 3 Records and exchange of information

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

- (1) The Minister directs that a person who enters a quarantine facility 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 by electronically registering the person's contact details with Service NSW using a mobile phone or other device at the time the person enters the quarantine facility.

**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) 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 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.
- (6) 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.

**Example—**

Unexpected circumstances for the purposes of this clause include a failure of internet service or a breakdown of all of the occupiers computers or other devices.

- (7) 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.

## Part 4 Miscellaneous

### 21 Relationship of Order with Self-Isolation Order

- (1) A person to whom a direction is given under this Order must continue to comply with any directions applicable to the person under the Self-Isolation Order.
- (2) If a direction applicable to a person under this Order is inconsistent with a direction applicable to the person under the Self-Isolation Order, the direction under the Self-Isolation Order prevails to the extent of the inconsistency.

### 22 Exemptions

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

### 23 Repeal and savings

- (1) The *Public Health (COVID-19 Air Transportation Quarantine) Order 2021* (the **repealed Order**) is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the repealed Order, had effect under the repealed Order, continues to have effect under this Order.
- (3) Without limiting subclause (2), if, immediately before the commencement of this Order—
  - (a) a person was the subject of a quarantine order under the repealed Order, the quarantine period continues under this Order as if the repealed Order remained in force, and
  - (b) a designation or direction made by the Commissioner of Police under the repealed Order was in force, the designation or direction continues as if it were made under this Order, and
  - (c) an exemption granted by the Minister under the repealed Order was in force, the exemption continues as if it were granted under this Order, and
  - (d) a delegation made for the purposes of the repealed Order was in force, the delegation continues as if it were made for the purposes of this Order.

## Schedule 1 Dictionary

clause 3

**Commissioner of Police** means—

- (a) the Commissioner within the meaning of the *Police Act 1990*, or
- (b) a member of the NSW Police Force to whom the Commissioner has delegated the exercise of functions under that Act, section 31.

**declared flight crew member**—see clause 14.

**designated worker** means the following—

- (a) a registered health practitioner,
- (b) a person who works in a public hospital,
- (c) a person who works in a private health facility licensed under the *Private Health Facilities Act 2007*,
- (d) a person who works in a facility at which residential care, within the meaning of the *Aged Care Act 1997* of the Commonwealth, is provided,
- (e) an NDIS worker within the meaning of the *National Disability Insurance Scheme (Worker Checks) Act 2018*.

**dwelling** has the same meaning as it has in the standard instrument set out in the *Standard Instrument (Local Environmental Plans) Order 2006*.

**employer** of a flight crew member means a person who employs or otherwise engages the member to assist with the operation of an aircraft.

**flight crew member** includes a member of a positioning crew.

**full day** means a period of 24 hours commencing at 12am and ending at 12am on the following day.

**Maritime Quarantine Order** means the *Public Health (COVID-19 Maritime Quarantine) Order (No 2) 2021*.

**medical facility** means a hospital or other medical facility.

**member of a positioning crew** means a person who—

- (a) is identified as a member of a positioning crew—
  - (i) in the flight manifest of the flight on which the person arrived in New South Wales, or
  - (ii) in a letter from the person's employer or the airline the person will be flying for, and
- (b) has documentary evidence of the flight, including the date of the flight, on which the person will leave Australia.

**New Zealand COVID-19 hotspot** means an area in New Zealand specified by the Chief Health Officer as a New Zealand COVID-19 hotspot by a notice published on the website of the New South Wales Government.

**Note—**

[www.nsw.gov.au](http://www.nsw.gov.au)

**NSW Health Air Transportation Guidelines** means the *NSW Health Air Transportation Guidelines* published on the website of NSW Health, as in force for the time being.

**Note—**

[www.health.nsw.gov.au](http://www.health.nsw.gov.au)

**NSW Testing Program** means the document entitled *Quarantine Worker Surveillance and Testing Program* approved by the Chief Health Officer and published on the website of NSW Health, as in force for the time being.

**Note—**

[www.health.nsw.gov.au](http://www.health.nsw.gov.au)

***Onward Domestic Travel of International Aircrew guideline*** means the guideline for *Onward Domestic Travel of International Aircrew* approved by the Chief Health Officer and published on the website of NSW Health, as in force for the time being.

**Note—**

www.health.nsw.gov.au

***quarantine facility*** means premises designated as a quarantine facility under clause 18.

***quarantine period***—see clause 5.

***quarantined person*** means—

- (a) a relevant person, and
- (b) a person who is subject to a direction from the Chief Health Officer under clause 8(2)(a) or (b).

***relevant flight crew member*** means—

- (a) a flight crew member who—
  - (i) arrives in New South Wales by aircraft, whether the flight originates interstate or overseas, as a flight crew member, and
  - (ii) has, within 14 days immediately before the crew member's arrival, been in a country other than Australia or New Zealand, or
- (b) a flight crew member who arrives in New South Wales by aircraft from New Zealand and a second person on the aircraft, whether a crew member or passenger, has, within 14 days immediately before the crew member's arrival, been in a country other than Australia, New Zealand, the Cook Islands or Niue.

***relevant person*** means—

- (a) a person who—
  - (i) arrives in New South Wales by aircraft, whether the flight originates interstate or overseas, and
  - (ii) has, within 14 days immediately before the person's arrival, been in a country other than Australia or New Zealand, or
- (b) a person who arrives in New South Wales by aircraft from New Zealand and a second person on the aircraft, whether a crew member or passenger, has, within 14 days immediately before the first person's arrival, been in a country other than Australia, New Zealand, the Cook Islands or Niue, or
- (c) a relevant flight crew member.

***Self-Isolation Order*** means the *Public Health (COVID-19 Self-Isolation) Order 2021*.

***test for COVID-19*** means a test for COVID-19 carried out by, or on behalf of, NSW Health.

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



New South Wales

# Public Health (COVID-19 Maritime Quarantine) Order (No 2) 2021

under the

Public Health Act 2010

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

Dated 4 June 2021.

BRAD HAZZARD, MP  
Minister for Health and Medical Research

## **Explanatory note**

The object of this Order is to repeal and remake, with some changes, the *Public Health (COVID-19 Maritime Quarantine) Order 2021*.

## Contents

	Page
<b>Part 1 Preliminary</b>	
1 Name of Order	3
2 Commencement	3
3 Definitions	3
4 Grounds for concluding there is a risk to public health	5
5 Application of order	5
<b>Part 2 Quarantine</b>	
6 Direction—persons arriving in NSW on a vessel	6
7 Directions—persons authorised to disembark by Commissioner of Police	6
8 Direction—persons disembarking from vessels to undertake essential tasks	6
9 Direction—persons disembarking because of emergency	7
10 Direction—employer of persons disembarking from vessels	7
<b>Part 3 Other</b>	
11 Directions—COVID-19 safety plans	8
12 Directions—persons boarding and disembarking from vessels	8
13 Directions—contact details of persons boarding and disembarking from vessels	9
14 Direction—advice provided by Chief Health Officer	10
15 Relationship of Order with Self-Isolation Order	10
16 Exemptions	10
17 Repeal and savings	10

## Public Health (COVID-19 Maritime Quarantine) Order (No 2) 2021

under the

Public Health Act 2010

### Part 1 Preliminary

#### 1 Name of Order

This Order is the *Public Health (COVID-19 Maritime Quarantine) Order (No 2) 2021*.

#### 2 Commencement

This Order commences at the beginning of 7 June 2021.

#### 3 Definitions

(1) In this Order—

***Commissioner of Police***—

- (a) means the Commissioner within the meaning of the *Police Act 1990*, and
- (b) includes a member of the NSW Police Force to whom the Commissioner has delegated functions under section 31 of that Act.

***essential task*** includes the following—

- (a) loading or unloading cargo,
- (b) rigging gangways,
- (c) undertaking ship to shore activities,
- (d) connecting water or fuel to a vessel,
- (e) receiving or loading stores,
- (f) disposing of waste,
- (g) carrying out essential maintenance on a vessel,
- (h) carrying out safety checks and activities,
- (i) preparing a vessel for sailing,
- (j) being assessed or treated by a health practitioner, including being tested for COVID-19, as approved by an authorised medical practitioner within the meaning of the Act, section 60.

***full day*** means a period of 24 hours commencing at 12am and ending at 12am on the following day.

***NSW Health Guideline: Appropriate Personal Protective Equipment for Maritime Workers*** means the *NSW Health Guideline: Appropriate Personal Protective Equipment for Maritime Workers* published on the website of NSW Health, as in force for the time being.

**Note.** [www.health.nsw.gov.au](http://www.health.nsw.gov.au)

**quarantine facility** has the same meaning as in the *Public Health (COVID-19 Air Transportation Quarantine) Order (No 2) 2021*.

**quarantine period** means, for a relevant person arriving in New South Wales, the period—

- (a) starting when the person disembarks from the vessel on which the person arrived in New South Wales, and
- (b) ending when the sooner of the following occurs—
  - (i) at least 14 full days have passed and the Chief Health Officer—
    - (A) is satisfied that the person, having regard to any testing for COVID-19, does not pose a risk of infecting any other person with COVID-19, and
    - (B) is satisfied that—
      - (I) the person will be tested for COVID-19 2 days after leaving the quarantine facility or hospital or other medical facility concerned, or
      - (II) for a person who cannot, due to circumstances beyond the person's control, be tested for COVID-19 2 days after leaving the facility—the person will be tested for COVID-19 as soon as practicable after leaving the facility,
  - (ii) 24 full days have passed.

**relevant person**—see clause 6.

**Self-Isolation Order** means the *Public Health (COVID-19 Self-Isolation) Order 2021*.

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

**vessel** has the same meaning as in the *Ports and Maritime Administration Act 1995* but does not include a vessel owned and operated by the Commonwealth.

**wharf** includes a pier, jetty, landing stage, dock, slip or platform.

**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 *Public Health (COVID-19 Air Transportation Quarantine) Order (No 2) 2021* includes a reference to an order that remakes, replaces or consolidates, whether in whole or in part, the *Public Health (COVID-19 Air Transportation Quarantine) Order (No 2) 2021*, and
  - (b) a reference to a provision of the *Public Health (COVID-19 Air Transportation Quarantine) Order (No 2) 2021* includes a reference to a provision of an order mentioned in paragraph (a) that corresponds, or substantially corresponds, to the provision of the *Public Health (COVID-19 Air Transportation Quarantine) Order (No 2) 2021*, and
  - (c) a reference to the Self-Isolation Order includes a reference to an order that remakes, replaces or consolidates, whether in whole or in part, the Self-Isolation Order, and
  - (d) a reference to a provision of the Self-Isolation Order includes a reference to a provision of an order mentioned in paragraph (c) that corresponds, or substantially corresponds, to the provision of the Self-Isolation Order.
- (3) Notes included in this Order do not form part of this Order.

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

The basis for concluding 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) there is an ongoing risk of—
  - (i) continuing introduction of COVID-19 into the New South Wales community, or
  - (ii) transmission of COVID-19 in the New South Wales community.

#### 5 Application of order

This Order does not apply to, or in relation to, a vessel that arrives, or has arrived, in New South Wales on a voyage if—

- (a) the voyage commenced from a port in Australia, and
- (b) the vessel has not stopped at a port outside Australia on the voyage, and
- (c) each person on board the vessel boarded the vessel at a port in Australia, and
- (d) each person on board the vessel has not, within 14 days immediately before boarding the vessel, been in a country other than Australia or New Zealand.

**Note.** A person who arrives in NSW by air to board a vessel must comply with quarantine requirements set out in the *Public Health (COVID-19 Air Transportation Quarantine) Order (No 2) 2021*.

## Part 2 Quarantine

### 6 Direction—persons arriving in NSW on a vessel

The Minister directs that a person (a *relevant person*) who arrives in New South Wales on a vessel that comes from a port outside of New South Wales must not disembark from the vessel unless the person—

- (a) is authorised to do so by the Commissioner of Police (see clause 7), or
- (b) disembarks for the purpose of undertaking an essential task (see clause 8), or
- (c) is required to do so because of an emergency (see clause 9).

### 7 Directions—persons authorised to disembark by Commissioner of Police

- (1) The Minister directs that a relevant person who is authorised to disembark from a vessel under clause 6(a) must do one of the following as directed by the Commissioner of Police—
  - (a) go directly to a quarantine facility specified by the Commissioner of Police,
  - (b) go directly to a hospital or other medical facility for treatment,
  - (c) go directly to an airport or another vessel in order to immediately leave Australia on an international flight or the vessel, including an international flight or a vessel that stops in another State or a Territory before leaving Australia.
- (2) The Minister directs that a relevant person subject to a direction of the Commissioner of Police under subclause (1) must comply with a direction of the Commissioner in relation to the person's transit at the port and the person's travel to—
  - (a) the quarantine facility, or
  - (b) the hospital or other medical facility, or
  - (c) the airport or other vessel.
- (3) The Minister directs that a relevant person required to go to a quarantine facility or hospital or other medical facility under subclause (1) must remain at the facility or another facility as directed by the Commissioner of Police during the quarantine period unless—
  - (a) the Commissioner directs otherwise, or
  - (b) there is an emergency that requires the person to leave the facility.
- (4) The Minister directs that a relevant person who is subject to a direction of the Commissioner of Police to leave a facility under subclause (3)(a) must comply with a direction of the Commissioner in relation to the person—
  - (a) travelling to an airport or a vessel from the facility, or
  - (b) waiting at an airport or on a vessel to leave Australia.
- (5) The Minister directs that a relevant person who, because of an emergency, is required to leave a facility under subclause (3)(b) must comply with a direction of the Commissioner of Police, including a direction in relation to—
  - (a) re-boarding the vessel when it is safe to do so, or
  - (b) going directly to a quarantine facility or hospital or other medical facility for the remainder of the quarantine period.

### 8 Direction—persons disembarking from vessels to undertake essential tasks

- (1) The Minister directs that a relevant person who disembarks from a vessel under clause 6(b) must—

- (a) remain within the relevant distance unless it is an emergency, and
- (b) comply with the *NSW Health Guideline: Appropriate Personal Protective Equipment for Maritime Workers*, and
- (c) re-board the vessel immediately after completing the essential task, and
- (d) comply with a direction of the Commissioner of Police in relation to disembarking from the vessel, carrying out the essential task or re-boarding the vessel after completing the essential task.

(2) In this clause—

**relevant distance** means—

- (a) the distance—
  - (i) from the vessel that is reasonably necessary for the carrying out of the essential task, and
  - (ii) that is no further than 13 metres from the wharf at which the vessel is docked, or
- (b) a further distance permitted by the Commissioner of Police.

#### **9 Direction—persons disembarking because of emergency**

The Minister directs that a relevant person who, because of an emergency, is required to disembark from a vessel under clause 6(c) must comply with a direction of the Commissioner of Police, including a direction in relation to—

- (a) re-boarding the vessel when it is safe to do so, or
- (b) going directly to a quarantine facility or hospital or other medical facility for the remainder of the quarantine period.

#### **10 Direction—employer of persons disembarking from vessels**

(1) The Minister directs that the employer of a relevant person who disembarks from a vessel under clause 6 must—

- (a) arrange appropriate transportation for the person's travel to—
  - (i) the quarantine facility, or
  - (ii) the hospital or other medical facility, or
  - (iii) the airport or other vessel, and
- (b) provide the person with a face mask, and
- (c) take reasonable steps to ensure the person wears a face mask while—
  - (i) travelling to a place specified in paragraph (a), or
  - (ii) waiting at an airport to leave New South Wales.

(2) In this clause—

**appropriate transportation**—

- (a) includes the use of a hire vehicle within the meaning of the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016*, but
- (b) excludes—
  - (i) a form of public transportation, and
  - (ii) a passenger service, including a taxi service, within the meaning of the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016*, other than the use of a hire vehicle.

**employer** of a relevant person means the person who employs or otherwise engages the relevant person to assist with the operation of the vessel.

## Part 3 Other

### 11 Directions—COVID-19 safety plans

- (1) The Minister directs that a person who is the occupier of a wharf at which a vessel is docked must—
  - (a) develop and comply with a COVID-19 safety plan that addresses the matters required by the COVID-19 safety checklist for maritime operations as in force for the time being, and
  - (b) keep a copy of the COVID-19 safety plan on, or in reasonable proximity to, the wharf, and
  - (c) make it available for inspection by an authorised officer or police officer as requested.
- (2) The Minister directs that the master of a vessel that is docked at a wharf must—
  - (a) develop and comply with a COVID-19 safety plan that addresses the matters required by the COVID-19 safety checklist for maritime operations as in force for the time being, and
  - (b) keep a copy of the COVID-19 safety plan on the vessel, and
  - (c) make it available for inspection by an authorised officer or police officer as requested.
- (3) In this clause—

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

**Note.** [www.nsw.gov.au](http://www.nsw.gov.au)

**master** has the same meaning as in the *Ports and Maritime Administration Act 1995*.

### 12 Directions—persons boarding and disembarking from vessels

- (1) The Minister directs that the following persons are the only persons authorised to board, and subsequently disembark from, a vessel on which there is a relevant person—
  - (a) a person required to board the vessel to assist the vessel to dock or depart,
  - (b) a person required to board the vessel to assist in refuelling or restocking the vessel,
  - (c) a person required to board the vessel to assist in loading or unloading cargo,
  - (d) a person required to board the vessel to exercise border security, customs or quarantine functions,
  - (e) a medical practitioner or other health practitioner required to board the vessel to provide medical treatment or testing to a person on board the vessel,
  - (f) a person involved in the enforcement of this Order,
  - (g) a person required to board the vessel in an emergency,
  - (h) a person required to board the vessel to repair or maintain the vessel,
  - (i) a person required to board the vessel in the person's capacity as a ship agent or ship classification surveyor,
  - (j) a member of staff of the operator of a terminal required to board the vessel to undertake ship to shore requirements,
  - (k) an Australian Maritime Safety Authority inspector,

- (l) a person conducting an inspection for or on behalf of a regulator or a verification and audit body that is recognised by the shipping industry,
  - (m) a union official,
  - (n) a cargo surveyor,
  - (o) a person exercising insurance functions.
- (2) The Minister directs that, despite subclause (1), a person is not authorised to board, or disembark from, a vessel if the Commissioner of Police directs in a particular case that the person should not board or disembark from the vessel.
  - (3) The Minister directs that a person who boards a vessel under subclause (1) must comply with the *NSW Health Guideline: Appropriate Personal Protective Equipment for Maritime Workers*.
  - (4) The Minister directs that a person who boards a vessel under subclause (1) must disembark from the vessel immediately after exercising the function for which the person was required to board the vessel.

**13 Directions—contact details of persons boarding and disembarking from vessels**

- (1) The Minister directs that a person to whom clause 12 applies must provide the person's contact details to the occupier of the wharf at which the vessel is docked in accordance with this clause.
- (2) The Minister directs that the occupier of the wharf 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 by electronically registering the person's contact details with Service NSW using a mobile phone or other device before the person boards the vessel.
- (4) 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.
- (5) 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 wharf, and
  - (b) the occupier of the wharf is to electronically register the contact details within 12 hours.

**Example.** Unexpected circumstances for the purposes of this clause include a failure of internet service.
- (6) The Minister directs that the occupier of the wharf to whom a person's contact details are provided in the manner specified in subclause (3) 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).
- (7) In this clause—

*contact details*, of a person who boarded a vessel 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 boarded the vessel.

**14 Direction—advice provided by Chief Health Officer**

The Minister directs that the Commissioner of Police must, in the exercise of a function under this Order, have regard to advice provided by the Chief Health Officer, or a delegate of the Chief Health Officer, for the purposes of this Order.

**15 Relationship of Order with Self-Isolation Order**

- (1) A person to whom a direction is given under this Order must continue to comply with a direction applicable to the person under the Self-Isolation Order.
- (2) If a direction applicable to a person under this Order is inconsistent with a direction applicable to the person under the Self-Isolation Order, the direction under the Self-Isolation Order prevails to the extent of the inconsistency.

**16 Exemptions**

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

**17 Repeal and savings**

- (1) The *Public Health (COVID-19 Maritime Quarantine) Order 2021* (the **repealed Order**) is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the repealed Order, had effect under the repealed Order, continues to have effect under this Order.
- (3) Without limiting subclause (2), if, immediately before the commencement of this Order—
  - (a) a person was the subject of a quarantine order under the repealed Order, the quarantine period continues under this Order as if the repealed Order remained in force, and
  - (b) a designation or direction made by the Commissioner of Police under the repealed Order was in force, the designation or direction continues as if it were made under this Order, and
  - (c) an exemption granted by the Minister under the repealed Order was in force, the exemption continues as if it were granted under this Order, and
  - (d) a delegation by the Minister or the Commissioner of Police under the repealed Order was in force, the delegation continues as if it were made for the purposes of this Order.