



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*.

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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

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

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.