



New South Wales

# Public Health (COVID-19 Self-Isolation) Order (No 3) 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 6 September 2021 (original order).

As amended on 22 September 2021, 24 September 2021, 28 September 2021, 8 October 2021 and 21 October 2021.

Minister for Health and Medical Research

## Explanatory note

The object of this Order is to repeal and remake the *Public Health (COVID-19 Self-Isolation) Order (No 2) 2021* with changes to allow for the declaration of high risk premises and the application of additional directions to control the transmission of COVID-19 amongst persons in those premises.

## Editorial note

This is the order as amended by the *Public Health (COVID-19 Self-Isolation) Order (No 3) Amendment Order 2021*, the *Public Health (COVID-19 Self-Isolation) Order (No 3) Amendment (No 2) Order 2021*, the *Public Health (COVID-19 Self-Isolation) Order (No 3) Amendment (No 3) Order 2021*, the *Public Health (COVID-19 General) Order Amendment (No 1) Order 2021* and the *Public Health (COVID-19 Self-Isolation) Order (No 3) Amendment Order (No 4) 2021*.

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## Public Health (COVID-19 Self-Isolation) Order (No 3) 2021

under the

Public Health Act 2010

### Part 1 Preliminary

#### 1 Name of Order

This Order is the *Public Health (COVID-19 Self-Isolation) Order (No 3) 2021*.

#### 2 Commencement

This Order commences when the Minister signs the Order.

#### 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) 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 that a situation has arisen that is, or is likely to be, a risk to public health is as follows—

- (a) public health authorities both internationally and in Australia have been monitoring and responding to outbreaks of COVID-19, which is a condition caused by the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2),
- (b) COVID-19 is a potentially fatal condition and is highly contagious,
- (c) a number of cases of individuals with COVID-19 have recently been confirmed in New South Wales and other Australian jurisdictions, including by means of community transmission, and there is an ongoing risk of continuing introduction or transmission of the virus in New South Wales.

## Part 2 Persons diagnosed with COVID-19 and close contacts

### 5 Introduction

This Part sets out directions of the Minister about self-isolation of diagnosed persons and close contacts.

### 6 Persons diagnosed with COVID-19 must self-isolate

- (1) A diagnosed person must, immediately after receiving the diagnosis of COVID-19, travel directly to—
  - (a1) the person's residence or a place suitable for the person to reside in, or
    - (a) if determined as necessary by a designated health practitioner or authorised contact tracer—a residence or place that has been determined by the designated health practitioner or authorised contact tracer to be suitable for the person to reside in, or
    - (b) if determined as necessary by a designated health practitioner or authorised contact tracer—a hospital for assessment by a medical practitioner, or
    - (c) if the person is from another State or a Territory and a designated health practitioner or authorised contact tracer considers it appropriate for the person to return to the State or Territory—a residence, hospital or other place in the State or Territory that has been determined by the designated health practitioner or authorised contact tracer to be suitable for the person.
- (1A) If a designated health practitioner or authorised contact tracer determines that a hospital, residence or place that a diagnosed person referred to in subclause (1) or (2) is residing in is not suitable for the person, the person must travel directly, and in a way determined by the designated health practitioner or authorised contact tracer, to—
  - (a) a residence or place that the designated health practitioner or authorised contact tracer determines is suitable for the person to reside in, or
  - (b) if determined as necessary by a designated health practitioner or authorised contact tracer—a hospital for assessment by a medical practitioner.
- (2) A diagnosed person referred to in subclause (1)(b) or (1A)(b) must, immediately after leaving or being discharged from the hospital, travel directly to a residence or place that has been determined by a designated health practitioner or authorised contact tracer to be suitable for the person to reside in.
- (3) A diagnosed person referred to in subclause (1)(a1) or (a), (1A)(a) or (2) must—
  - (a) reside at the residence or place until medically cleared, and
  - (b) on request, provide the address of the residence or place and a contact telephone number to a designated health practitioner or authorised contact tracer.
- (4) While residing at the residence or place as required by subclause (1)(a1) or (a), (1A)(a) or (2), the diagnosed person must—
  - (a) not leave the residence or place except—
    - (i) for the purposes of obtaining medical care or medical supplies, or
    - (ii) in another emergency situation, and
  - (b) not permit another person to enter the residence or place unless—
    - (i) the other person usually lives at the residence or place or the other person is also complying with a direction under this Order, or
    - (ii) the entry is for medical or emergency purposes, or

- (iii) the entry is to a place, other than a residence, for the purposes of delivering food or essential items, and
  - (c) otherwise comply with the NSW Health self-isolation guideline.
- (5) A diagnosed person must, if directed to do so by an authorised medical practitioner, immediately provide the following information to the authorised medical practitioner—
  - (a) details of the diagnosed person's contact with other persons within the previous 28 days, including their names and contact details, if known,
  - (b) details of the places the diagnosed person has been within the previous 28 days.

**6A Persons diagnosed with COVID-19 must notify employers, close contacts and education providers**

- (1) A diagnosed person must, immediately after receiving the diagnosis of COVID-19, take reasonable steps to notify the following persons of the diagnosis, but only if it is reasonably practicable to do so—
  - (a) the diagnosed person's employer or a person who engages the diagnosed person as a contractor for services,
  - (b) any person who resides with the diagnosed person,
  - (c) any person who has in contact with the diagnosed person in a way that might result in the person being at risk of developing COVID-19 as identified in the Confirmed Case Factsheet,
  - (d) if the diagnosed person is a student—the head of the diagnosed person's educational institution or a staff member identified by the institution for receiving notifications of COVID-19 cases.
- (2) A notification under this clause must comply with the Confirmed Case Factsheet.
- (3) In this clause—

**Confirmed Case Factsheet** means the document entitled *Factsheet: Confirmed Case of COVID-19* issued by the Chief Health Officer from time to time and published on the website of NSW Health.

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

**educational institution** means a school, college, university or other institution at which education or training is provided.

**7 Close contacts of persons diagnosed with COVID-19 must self-isolate**

- (1) A close contact must, if directed in writing to do so by or on behalf of an authorised contact tracer, immediately travel directly to—
  - (a) the close contact's residence or a place suitable for the close contact to reside in, or
  - (b) if determined as necessary by a designated health practitioner or authorised contact tracer—a residence or place that has been determined by the designated health practitioner or authorised contact tracer to be suitable for the close contact to reside in, or
  - (c) if the close contact is from another State or a Territory and a designated health practitioner or authorised contact tracer considers it appropriate for the close contact to return to the State or Territory—a residence, hospital or other place in the State or Territory that has been determined by the designated health practitioner or authorised contact tracer to be suitable for the close contact.

- (1A) If a designated health practitioner or authorised contact tracer determines that a hospital, residence or place that a close contact is residing in is not suitable for the person, the person must travel directly, and in a way determined by the designated health practitioner or authorised contact tracer, to—
- (a) a residence or place that the designated health practitioner or authorised contact tracer determines is suitable for the close contact to reside in, or
  - (b) if determined as necessary by a designated health practitioner or authorised contact tracer—a hospital for assessment by a medical practitioner.
- (2) A close contact referred to in subclause (1)(a) or (b) or (1A)(a) must reside at the residence or other suitable place for the period of time, not exceeding the following period, determined by an authorised contact tracer and notified in writing to the close contact—
- (a) for a close contact who was a fully vaccinated person at the identified time of contact—7 days,
  - (b) for other close contacts—14 days.
- (3) A close contact referred to in subclause (1)(a) or (b) or (1A)(a) who intends to reside at a residence or place must, on request, provide the address of the residence or place and a contact telephone number to an authorised contact tracer.
- (4) A close contact referred to in subclause (1)(a) or (b) or (1A)(a), while residing at the residence or place, must—
- (a) not leave the residence or place except—
    - (i) for the purposes of obtaining medical care, including a test for COVID-19, or medical supplies, or
    - (ii) in another emergency situation, and
  - (b) not permit another person to enter the residence or place unless—
    - (i) the other person usually lives at the residence or place or the other person is also complying with a direction under this Order, or
    - (ii) the entry is for medical or emergency purposes, or
    - (iii) the entry is to a place, other than a residence, for the purposes of delivering food or essential items, and
  - (c) otherwise comply with the NSW Health self-isolation guideline.
- (5) A close contact referred to in subclause (1)(a) or (b) or (1A)(a), while residing at the residence or place, must, if directed in writing to do so by an authorised medical practitioner—
- (a) be tested for COVID-19 and provide information about the date, time and location of the test, or
  - (b) continue to comply with this clause for a further period, not exceeding 14 days, specified by the authorised medical practitioner.
- (6) In this clause—
- COVID-19 vaccine** has the same meaning as in the *Public Health (COVID-19 General) Order 2021*.
- fully vaccinated person**, at a time, means a person who has had 2 doses of a COVID-19 vaccine at least 14 days before the time.

## Part 3 High contact risk premises

### 8 Introduction

This Part sets out directions of the Minister about persons in high COVID-19 risk premises.

### 9 Definitions

In this Part—

**affected person** for high COVID-19 risk premises means a person who—

- (a) resides in the premises, whether permanently or temporarily, or
- (b) is a non-resident of the premises who is on the premises when the Minister declares the premises to be high COVID-19 risk premises.

**common property** means—

- (a) common property within the meaning of the *Strata Schemes Development Act 2015*, or
- (b) association property within the meaning of the *Community Land Development Act 1989*, or
- (c) in relation to premises under company title, a part of the premises—
  - (i) used as common property by the residents of the premises, or
  - (ii) that no person has an exclusive right to occupy.

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

**high COVID-19 risk premises** means premises—

- (a) that contain 2 or more dwellings, at least 1 of which is a COVID-19 risk premises, and
- (b) which the Minister has declared, by a notice published on the website of NSW Health, should be closed following advice from a public health officer that there is a risk of transmission of COVID-19 between residents of the premises.

**permitted person**, in relation to entering high COVID-19 risk premises, means a person who is—

- (a) a police officer, or
- (b) entering at the direction of a police officer, or
- (c) entering for the purposes of providing medical treatment or care to an affected person, or
- (d) entering in connection with—
  - (i) testing affected persons for COVID-19, or
  - (ii) vaccinating affected persons against COVID-19, or
- (e) entering for the purposes of complying with a direction applicable to the person under this Order, or
- (f) entering for the purposes of undertaking functions or providing services necessary for the ordinary operation of the premises, or
- (g) entering because of an emergency.

### 10 Duration of declaration by Minister

A declaration by the Minister that premises are high COVID-19 risk premises has effect for 14 days unless—

- (a) a public health officer advises the Minister that there is no longer a risk of transmission of COVID-19 between residents of the premises, and
- (b) the Minister revokes the declaration.

#### **11 Notification of affected persons**

The Minister is to notify, or make arrangements for the notification of, affected persons for high COVID-19 risk premises as soon as practicable after declaring the premises to be high COVID-19 risk premises.

#### **12 Residents of high COVID-19 risk premises**

- (1) An affected person who is a resident of high COVID-19 risk premises must not leave the person's residence unless—
  - (a) instructed to do so by an authorised medical practitioner or the Commissioner of Police, including an instruction to leave the premises to go to a quarantine facility or a hospital or other medical facility, or
  - (b) there is an emergency that requires the person to leave the residence.
- (2) An affected person who is a resident of high COVID-19 risk premises must, if the person is not in their residence when the premises are declared to be high COVID-19 risk premises, return to the person's residence immediately after becoming aware of the declaration.
- (3) Despite subclause (2), if an authorised medical practitioner considers that the return of an affected person to high COVID-19 risk premises would pose a risk of COVID-19 transmission that cannot otherwise be reasonably managed, the authorised medical practitioner may, by written notice, instruct the person that the person must—
  - (a) not return to the person's residence, and
  - (b) go to a quarantine facility, hospital or other medical facility or place that has been determined by the authorised medical practitioner to be suitable for the person to reside in, and
  - (c) not leave the quarantine facility, hospital, medical facility or place until the earlier of the following—
    - (i) the person is released by an authorised medical practitioner,
    - (ii) the declaration by the Minister about the high COVID-19 risk premises ceases to have effect.
- (3A) An affected person must comply with an instruction under subclause (3).
- (3B) An affected person does not contravene the direction under subclause (2) if the person—
  - (a) acts in compliance with a determination by a designated health practitioner under clause 6(1)(b) that the person travel directly to a hospital for assessment by a medical practitioner, or
  - (b) acts in compliance with an instruction under subclause (3).
- (4) To avoid doubt, an instruction given under subclause (1)(a) or (3)(b) to go to a quarantine facility, a hospital or another medical facility or place may include requirements as to the means and time of transportation.
- (5) An affected person who is a resident of high COVID-19 risk premises must not use any part of the common property of the premises unless authorised, whether generally or in particular circumstances, by a public health officer.

### **13 Non-residents of high COVID-19 risk premises**

- (1) An affected person who is a non-resident of high COVID-19 risk premises must comply with instructions given by the Commissioner of Police or an authorised medical practitioner.
- (2) Without limiting subclause (1), an instruction under subclause (1) may include an instruction to—
  - (a) leave the premises to go to a quarantine facility or a hospital or other medical facility, or
  - (b) reside in a dwelling in the high COVID-19 risk premises until medically cleared.
- (3) An affected person subject to an instruction under subclause 2(b) must comply with directions under clauses 12(1) and 16 as if the person were a resident of the high COVID-19 risk premises.

### **14 Persons entering high COVID-19 risk premises**

A person must not enter high COVID-19 risk premises unless the person is—

- (a) an affected person who is complying with clause 12(2), or
- (b) a permitted person.

### **15 Providing information**

- (1) An affected person or a person involved in the management of high COVID-19 risk premises must, at the direction of the Commissioner of Police, provide information that assists in identifying affected persons.
- (2) A person who provides information in response to a requirement under this clause must ensure the information is true and accurate.

### **16 COVID-19 testing**

- (1) An affected person must, if requested to do so by an authorised medical practitioner, be tested for COVID-19.
- (2) An affected person who is a resident of high COVID-19 risk premises and who does not comply with the direction under subclause (1) must reside at the person's residence until medically cleared.
- (3) While residing at the residence under a direction under subclause (2), the affected person must—
  - (a) not leave the residence or place except—
    - (i) in accordance with an instruction from the Commissioner of Police or an authorised medical practitioner, including an instruction to leave the premises to go to a quarantine facility or a hospital or other medical facility, or
    - (ii) in another emergency situation that requires the person to leave the residence, and
  - (b) not permit another person to enter the residence or place unless—
    - (i) the other person usually lives at the residence or place or the other person is also complying with a direction under this Order, or
    - (ii) the entry is for medical or emergency purposes, and
  - (c) otherwise comply with the NSW Health self-isolation guideline.

- (4) To avoid doubt, an instruction given under subclause (3)(a)(i) may include an instruction to go to a quarantine facility, a hospital or another medical facility and may include requirements as to the means and time of transportation.

## Part 4 Providing information

### 17 Introduction

This Part sets out directions of the Minister about providing information to a police officer.

### 18 Responding to police requests about persons in COVID-19 risk premises

- (1) A person who is residing or present at COVID-19 risk premises must respond to any request made by a police officer for information about who is residing or present at the premises.
- (2) A person who provides information in response to a requirement under this clause must ensure the information is true and accurate.
- (3) Without limiting subclause (1)—
  - (a) if a police officer knocks at a door of the premises—a person to whom the subclause applies is required to open the door and comply with the request of the officer, and
  - (b) a request for information may include a request to provide the name and contact details of persons residing or present at the premises, whether at the time of the request or generally.

### 18A Employers to notify SafeWork NSW of COVID-19 diagnoses

- (1) A person conducting a business or undertaking must notify SafeWork NSW if the person becomes aware that a worker of the business or undertaking is diagnosed with COVID-19.
- (2) Despite subclause (1), the person conducting a business or undertaking is required to make a notification under this clause only if the person is aware that the worker—
  - (a) contracted COVID-19, or is likely to have contracted COVID-19, at the person's workplace, or
  - (b) attended a workplace of the person while infected with COVID-19.
- (3) For the purposes of subclause (2)(b), a worker's home is not a workplace of a person conducting a business or undertaking.
- (4) The person conducting a business or undertaking must make the notification within 24 hours of becoming aware of that fact.
- (5) In this clause—

**person conducting a business or undertaking** means a person who is—

  - (a) a person conducting a business or undertaking within the meaning of the *Work Health and Safety Act 2011*, or
  - (b) a person conducting a business or undertaking within the meaning of the *Work Health and Safety Act 2011* of the Commonwealth.

**Safework NSW** means SafeWork NSW as referred to in the *Work Health and Safety Act 2011*, Schedule 2, clause 1.

**worker** has the same meaning as in the *Work Health and Safety Act 2011*.

## Part 5 Miscellaneous

### 19 Relationship of Order with Quarantine Orders

- (1) If a direction applicable to a person under Part 2 of this Order is inconsistent with a direction applicable to the person under a Quarantine Order, the direction under this Order prevails to the extent of the inconsistency.
- (2) If a direction applicable to a person under Part 3 of this Order is inconsistent with a direction applicable to the person under a Quarantine Order, the direction under the Quarantine Order prevails to the extent of the inconsistency.
- (3) In this clause—  
**Quarantine Order** means the following—
  - (a) the *Public Health (COVID-19 Air Transportation Quarantine) Order (No 3) 2021*,
  - (b) the *Public Health (COVID-19 Maritime Quarantine) Order (No 3) 2021*,
  - (c) an order under the Act, section 7 that remakes, replaces or consolidates, whether in whole or in part, an order referred to in paragraph (a) or (b).

### 19A Medical clearance and other COVID-19 orders

- (1) This clause sets out directions of the Minister about being medically cleared of COVID-19 and medical clearance notices.
- (2) A person who has been given a medical clearance notice is, during the period of 6 weeks beginning on the date on which the person was medically cleared, taken for the purposes of an order under the Act, section 7 to be a fully vaccinated person for COVID-19.
- (3) A person to whom subclause (1) applies must—
  - (a) carry evidence of the medical clearance notice, and
  - (b) at the request of a person authorised by an order under the Act, section 7 to request evidence of having been tested or vaccinated—produce the evidence for inspection.
- (4) In this clause—  
**fully vaccinated person** has the same meaning as in the *Public Health (COVID-19 General) Order 2021*.

### 19B Savings—persons medically cleared of COVID-19 between 22 September 2021 and 21 October 2021

- (1) This clause sets out directions of the Minister about persons who were medically cleared of COVID-19 and given a medical clearance notice on or after 22 September 2021 but before 8am on 21 October 2021.
- (2) A person referred to in subclause (1) is, during the period of 6 months beginning on the date on which the person was medically cleared—
  - (a) taken to have complied with a direction in an order under the Act, section 7 relating to testing for COVID-19, and
  - (b) taken for the purposes of an order under the Act, section 7 to be a fully vaccinated person for COVID-19.
- (3) Clause 7 does not apply to a close contact who is a person referred to in subclause (1) during the period of 6 months beginning on the date on which the person was medically cleared.

- (4) A person referred to in subclause (1) must—
  - (a) carry evidence of the medical clearance notice, and
  - (b) produce the evidence for inspection, if requested to do so—
    - (i) for a person referred to in subclause (2)—by a person authorised by an order under the Act, section 7 to request evidence of having been tested or vaccinated, or
    - (ii) for a person referred to in subclause (3)— by a police officer.
- (5) In subclause (2)(b)—  
**fully vaccinated person** has the same meaning as in the *Public Health (COVID-19 General) Order 2021*.

## 20 Exemptions

The Minister may, in writing and subject to any conditions the Minister considers appropriate, exempt a person from the operation of this Order if satisfied it is necessary to protect the health and wellbeing of any member of the public.

## 21 Repeal and savings

- (1) The *Public Health (COVID-19 Self-Isolation) Order (No 2) 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)—
  - (a) a direction given by the repealed Order continues to have effect under this Order, and
  - (b) an exemption from a provision of the repealed Order continues to have effect under this Order as an exemption from the equivalent provision of this Order.

## Schedule 1 Dictionary

### Clause 3

**authorised contact tracer** means a person engaged by NSW Health or the Department of Education whose duties include—

- (a) identifying persons who may have come into contact with a person with COVID-19, or
- (b) notifying a person that the person has been identified as a close contact.

**authorised medical practitioner** has the same meaning as in the Act, Part 4, Division 4.

**close contact** means a person identified by an authorised contact tracer as—

- (a) likely to have come into contact with a person with COVID-19, and
- (b) at risk of developing COVID-19.

**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.

**COVID-19 risk premises** means a residence or place at which a person to whom clause 6 or 7 applies is residing.

**designated health practitioner** means any of the following—

- (a) a medical practitioner,
- (b) a registered nurse,
- (c) a paramedic.

**diagnosed person** means a person who has been—

- (a) notified by or on behalf of NSW Health or a pathology laboratory that the person has tested positive for COVID-19, or
- (b) otherwise diagnosed with COVID-19.

**medical clearance notice** means a notice, in a form approved by the Chief Health Officer, issued by a medical practitioner or registered nurse stating that a person has been medically cleared on a specified date.

**medically cleared** in relation to a person, means a person who has been assessed by a medical practitioner or registered nurse as not infectious for COVID-19 in accordance with the *SoNG Appendix NSW Health Coronavirus Disease (COVID-19) CDNA National Guidelines for Public Health Units* as in force from time to time.

**Note**— See [www.health.nsw.gov.au/Infectious/controlguideline/Documents/song-appendix.pdf](http://www.health.nsw.gov.au/Infectious/controlguideline/Documents/song-appendix.pdf)

**NSW Health self-isolation guideline** means the *NSW Health COVID-19 self-isolation guideline* issued by the Chief Health Officer from time to time and published on the website of NSW Health.

**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 3) 2021*.

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