



New South Wales

# Public Health (COVID-19 Additional Restrictions for Delta Outbreak) Order (No 2) Amendment Order 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 21 August 2021.

BRAD HAZZARD, MP  
Minister for Health and Medical Research

## Explanatory note

The object of this Order is to make miscellaneous amendments to the *Public Health (COVID-19 Additional Restrictions for Delta Outbreak) Order (No 2) 2021* (the **principal Order**) including—

- (a) to enable a police officer who suspects a person does not have a reasonable excuse for being away from the person's place of residence to direct the person to return to the place of residence, and
- (b) to require the wearing of fitted face coverings outdoors in a stay at home area, and
- (c) to impose a curfew that limits the circumstances in which a person, who resides in an area of concern, is permitted to leave the person's place of residence between 9pm and 5am, and
- (d) to require authorised workers who leave an area of concern for work to have a permit and to be vaccinated, and
- (e) to require a person who enters an area of concern for work to have a permit, and
- (f) to prevent certain retail premises, including hardware stores and garden centres in an area of concern from being open to the public and instead to be open only to trade or business customers, the stores will still be able to provide a home delivery or click and collect service to members of the public, and
- (g) to remove an exception that enabled shops in an area of concern to be open if they predominantly sell office supplies or pet supplies,
- (h) to prevent educational institutions, other than schools, in an area of concern from conducting face to face teaching or assessment, and
- (i) to require certain care workers who reside or work in an area of concern to be vaccinated, and
- (j) to extend the date on which the principal Order is repealed, and
- (k) to make other minor amendments to the principal Order.

## **Public Health (COVID-19 Additional Restrictions for Delta Outbreak) Order (No 2) Amendment Order 2021**

under the

Public Health Act 2010

### **1 Name of Order**

This Order is the *Public Health (COVID-19 Additional Restrictions for Delta Outbreak) Order (No 2) Amendment Order 2021*.

### **2 Commencement**

This Order commences—

- (a) for Schedule 1[10] and [13]—at the beginning of 28 August 2021, or
- (b) otherwise—at the beginning of 23 August 2021.

## **Schedule 1 Amendment of Public Health (COVID-19 Additional Restrictions for Delta Outbreak) Order (No 2) 2021**

**[1] Clause 2.9 Other exceptions**

Omit clause 2.9(1)(g). Insert instead—

- (g) in a vehicle and no other person is in the vehicle other than—
  - (i) a member of the person’s household, or
  - (ii) the person’s nominated visitor, or

**[2] Clause 3.2 Staying at home**

Insert after clause 3.2(3)—

- (3A) A person to whom this clause applies must, if requested to do so by a police officer, return to the person’s place of residence as soon as is reasonably practicable.
- (3B) A police officer may make the request under this clause if the police officer has a reasonable suspicion that the person is not complying with this clause.

**[3] Clause 3.12 Other persons authorised to visit place of residence**

Omit “person” from clause 3.12(3)(c). Insert instead “individual”.

**[4] Clause 3.14 Maximum number of persons—vehicles**

Omit clause 3.14(3)(e). Insert instead—

- (e) for compassionate reasons.

**[5] Clause 3.15 Fitted face coverings**

Omit clause 3.15(2) and (3). Insert instead—

- (2) A person in a stay at home area who is over the age of 12 years of age must wear a fitted face covering while the person is—
  - (a) in an indoor area or outdoor area other than a place of residence, or
  - (b) in an indoor area on common property for residential premises, or
  - (c) at a public transport waiting area or in a vehicle or vessel being used to provide a public transport service.
- (3) The operator of a hospitality venue in a stay at home area must ensure all persons working at the venue comply with this clause.

**[6] Clause 3.17 Other exceptions**

Omit “strenuous” from clause 3.17(1)(b).

**[7] Clause 4.2 Staying at home**

Omit “, wherever located,” from clause 4.2(1).

**[8] Clause 4.2(2)**

Omit the subclause. Insert instead—

- (2) A reasonable excuse includes—
  - (a) between the hours of 9pm on a day and 5am on the following day—an activity specified in Schedule 2, clause 2, 3, 5, 6 or 10–12, or

(b) otherwise—an activity specified for an area of concern in Schedule 2.

**[9] Clause 4.2(3A) and (3B)**

Insert after clause 4.2(3)—

- (3A) A person whose place of residence is in an area of concern must, if requested to do so by a police officer, return to the person's place of residence as soon as is reasonably practicable.
- (3B) A police officer may make the request under this clause if the police officer has a reasonable suspicion that the person is not complying with this clause.

**[10] Clause 4.3 Leaving area of concern for work**

Omit clause 4.3(2), Insert instead—

- (2) An authorised worker must not leave the area of concern for work without a permit issued by Service NSW.  
**Note—** See clause 6.4.
- (2A) An authorised worker does not require a permit for the provision of an emergency service.

**[11] Clause 4.3(3)–(3D)**

Omit clause 4.3(3). Insert instead—

- (3) An authorised worker must not leave the area of concern for work unless the worker—
  - (a) has had at least 1 dose of a COVID-19 vaccine, or
  - (b) has been issued with a medical contraindication certificate.
- (3A) The authorised worker, when leaving the area of concern for work must—
  - (a) carry the required evidence, and
  - (b) produce the required evidence for inspection if requested by—
    - (i) the worker's employer, or
    - (ii) the occupier of the worker's place of work, or
    - (iii) a police officer, or
    - (iv) an authorised officer.
- (3B) Subclauses (3) and (3A) do not apply to a person who is tested as part of a COVID-19 rapid antigen testing program of a kind approved by the Chief Health Officer.
- (3C) This clause does not apply to a person if the person has not been in the area of concern during the previous 14 days.
- (3D) Subclauses (3) and (3A) do not apply to an authorised worker before 30 August 2021.

**[12] Clause 4.3(4)**

Insert in alphabetical order—

***required evidence*** means—

- (a) evidence showing the worker's name and place of residence, and
- (b) the worker's vaccination evidence.

**[13] Part 4, Division 2A**

Insert after Division 2—

**Division 2A Entering area of concern**

**4.3A Entering area of concern for work**

- (1) A person must not enter an area of concern to carry out work in the area of concern without a permit issued by Service NSW.

**Note—** See clause 6.4.

- (2) A person does not require a permit for the provision of an emergency service.

**[14] Clause 4.6 Retail premises**

Omit clause 4.6(1). Insert instead—

- (1) Retail premises in an area of concern must not be open to members of the public except the following premises—

- (a) chemists and pharmacies,
- (b) kiosks,
- (c) shops referred to in subclause (2),
- (d) supermarkets and grocery shops, including neighbourhood supermarkets and neighbourhood shops,
- (e) vehicle hire premises but not the premises at which vehicles are sold.

**Note—** Service stations, banks, post offices, laundromats and dry cleaners are not retail premises and can remain open. See Schedule 4, Dictionary.

**[15] Clause 4.6(2)(c)(i) and (ii)**

Omit the subparagraphs.

**[16] Clause 4.6(2A)**

Insert after clause 4.6(2)—

- (2A) The following retail premises must not be open to members of the public, but may be open to trade or business customers—

- (a) garden centres and plant nurseries,
- (b) hardware and building supplies,
- (c) landscaping material supplies,
- (d) rural supplies,
- (e) timber yards.

**[17] Clause 4.6(4)**

Insert after clause 4.6(3)—

- (4) In this clause—

*trade or business customer* for retail premises means a person who purchases goods from the retail premises in the course of the person's trade or business and not as a consumer.

**[18] Clause 4.15 Maximum number of persons—vehicles**

Omit clause 4.15(3)(e). Insert instead—

- (e) for compassionate reasons.

**[19] Clauses 4.23 and 4.24**

Insert after clause 4.22—

**4.23 Educational institutions**

- (1) A person must not conduct a class, lecture, exam or other teaching or assessment session at an educational institution in an area of concern if students attend in person.
- (2) This clause does not apply to—
  - (a) a school, or
  - (b) an educational institution operated by NSW Health.

**4.24 Vaccinations—early education and care and disability support**

- (1) This clause applies to a relevant care worker whose place of residence or place of work is in an area of concern.
- (2) A relevant care worker must not enter or remain in the worker's place of work unless the worker—
  - (a) has had at least 1 dose of a COVID-19 vaccine, or
  - (b) has been issued with a medical contraindication certificate.
- (3) The relevant care worker must, when entering the worker's place of work—
  - (a) carry the required evidence, and
  - (b) produce the required evidence for inspection if requested by—
    - (i) the worker's employer, or
    - (ii) the occupier of the worker's place of work, or
    - (iii) a police officer, or
    - (iv) an authorised officer.
- (4) In this clause—

**relevant care worker** means a person who—

  - (a) works in an early education and care facility, except for a person who provides services listed in—
    - (i) the *Education and Care Services National Regulations*, clause 5, other than clause 5(2)(c) or (h), or
    - (ii) the *Children (Education and Care Services) Supplementary Provisions Act 2011*, section 4(3), other than section 4(3)(a), or

**Note.** See Schedule 4, Dictionary, note for the meaning of early education and care facility.
  - (b) provides disability support services in person to a person with a disability, including services funded or provided under—
    - (i) the National Disability Insurance Scheme of the Commonwealth, or
    - (ii) the Assisted School Travel Program of the Department of Education.

**required evidence** means—

  - (a) evidence showing the worker's name and place of residence, and
  - (b) the worker's vaccination evidence.
- (5) This clause does not apply to a relevant care worker before 30 August 2021.

**[20] Clause 5.8 Vaccination required to work on construction sites in Greater Sydney**

Omit “a certified medical contraindication” from clause 5.8(1)(d).

Insert instead “a medical contraindication certificate issued to the person”.

**[21] Clause 5.8(4)**

Omit the subclause.

**[22] Clause 5.8(6), definition of “Australian Immunisation Register”**

Omit the definition.

**[23] Clause 5.8(6), definition of “required evidence”**

Omit paragraph (b)(iii). Insert instead—

(iii) a medical contraindication certificate issued to the person.

**[24] Clause 6.4 Issue of permits**

Insert after clause 6.4(7)—

(7A) A single permit may be issued for the purposes of more than 1 clause of this Order.

**[25] Clause 7.5 Repeal of Order**

Omit the clause.

**[26] Schedule 2 Reasonable excuses**

Omit “including where 2 persons are in a relationship but do not necessarily live together” from clause 7.

**[27] Schedule 2, clause 24(1A)**

Insert after clause 24(1)—

(1A) A person must not be away from the person’s place of residence for more than 1 hour per day under this clause.

**[28] Schedule 4 Dictionary**

Insert in alphabetical order—

*Australian Immunisation Register* means the Australian Immunisation Register kept under the *Australian Immunisation Register Act 2015* of the Commonwealth.

*compassionate reasons* includes where 2 persons are in a relationship but do not necessarily live together.

*medical contraindication certificate* means a certificate issued by a medical practitioner—

- (a) in a form approved by the Chief Health Officer, and
- (b) certifying that because of a specified medical contraindication, the person to whom the certificate has been issued cannot have a COVID-19 vaccine.

*vaccination evidence* for a person means—

- (a) evidence from the Australian Immunisation Register that the person has had 1 or 2 doses of a COVID-19 vaccine, or

**Example—** An online immunisation history statement or COVID-19 digital certificate from the Australian Immunisation Register.

(b) a medical contraindication certificate issued to the person.

**[29] Schedule 4, note**

Insert in alphabetical order—

**home-based child care** means a family day care residence (within the meaning of the *Children (Education and Care Services) National Law (NSW)*) at which the education and care service is provided at any one time to no more than 7 children (including any child of the person providing the service) all of whom are under the age of 13 years and no more than 4 of whom are children who do not ordinarily attend school.

**school-based child care** means a building or place within a school that is used to provide out-of-school-hours care (including vacation care) for school children only.