



New South Wales

Public Health (COVID-19 Aged Care Facilities) Order (No 4) 2020

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 11 December 2020.

BRAD HAZZARD, MP
Minister for Health and Medical Research

Explanatory note

The object of this Order is to repeal and remake, with minor changes, the *Public Health (COVID-19 Aged Care Facilities) Order (No 3) 2020*.

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Public Health Act 2010

1 Name of Order

This Order is the *Public Health (COVID-19 Aged Care Facilities) Order (No 4) 2020*.

2 Commencement

This Order commences at the beginning of 15 December 2020.

3 Definitions

(1) In this Order—

care and support visit, in relation to a resident of a residential aged care facility, means a visit made to the resident for the purposes of providing care and support to the resident.

operator, of a residential aged care facility, means a person who owns, controls or operates the facility.

residential aged care facility means a facility at which the following services are provided to a person in relation to whom a residential care subsidy or flexible care subsidy is payable under the *Aged Care Act 1997* of the Commonwealth—

- (a) accommodation,
- (b) personal care or nursing care.

the Act means the *Public Health Act 2010*.

welfare or wellbeing visit, in relation to a residential aged care facility, means a visit made to one or more residents of the facility for the purposes of providing a welfare or wellbeing service.

Note. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Order.

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

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

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 now 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 of COVID-19 into the New South Wales community.

5 Direction—entering and remaining on premises of residential aged care facility

- (1) The Minister directs that a person must not enter or remain on the premises of a residential aged care facility unless—
 - (a) the person is an employee or contractor of the operator of the residential aged care facility, or
 - (b) the person is a representative of a union to which a person described in paragraph (a) belongs, or
 - (c) the person is on the premises of the residential aged care facility for one of the following purposes—
 - (i) providing goods or services that are necessary for the effective operation of the facility, whether for consideration or for free,
 - (ii) providing health, medical or pharmaceutical services to a resident of the facility, whether for consideration or for free,
 - (iii) providing personal care services to a resident of the facility, whether for consideration or for free,
 - (iv) making a care and support visit to a resident of the facility,
 - (v) making a welfare or wellbeing visit to one or more residents of the facility,
 - (vi) end-of-life support for a resident of the facility,
 - (vii) emergency management or law enforcement, or
 - (d) the person is on the premises—
 - (i) in the person's capacity as a prospective resident of the residential aged care facility, or
 - (ii) to accompany the prospective resident, or
 - (e) the person is on the premises in accordance with an exemption given by the Minister under clause 8.
- (2) Subclause (1) is subject to clause 6.

6 Direction—persons not to enter or remain on premises of residential aged care facility in certain circumstances

- (1) The Minister directs that a person mentioned in clause 5(1)(a)–(d) must not enter or remain on the premises of a residential aged care facility if—
 - (a) during the 14 days immediately before the proposed entry, the person arrived in Australia from a place outside Australia, or
 - (b) during the 14 days immediately before the proposed entry, the person had known contact with a person who has a confirmed case of COVID-19, or
 - (c) the person has a temperature of 37.5 degrees or higher or symptoms of acute respiratory infection, or
 - (d) the person does not have an up-to-date vaccination against influenza, unless—
 - (i) the vaccination is not available to the person, or
 - (ii) the person presents to the operator of the residential aged care facility a certificate in the approved form, issued by a medical practitioner, certifying that the person has a medical contraindication to the vaccination against influenza, or

- (iii) the person is making a care and support visit to a resident of the facility, or
 - (iv) the person is making a welfare or wellbeing visit to one or more residents of the facility, or
 - (v) the person is on the premises—
 - (A) in the person’s capacity as a prospective resident of the residential aged care facility, or
 - (B) to accompany the prospective resident.
- (2) If the proposed entry of a person described in clause 5(1)(c)(i) or (vii) is for the purpose of responding to an emergency, subclause (1)(d) does not apply.
- (3) The Minister directs that the operator of a residential aged care facility must consider advice of the Chief Health Officer when deciding the number of persons who may be permitted to enter or remain on the premises of the facility to visit a resident of the facility for a purpose mentioned in clause 5(1)(c)(iv) or (v).

7 Direction—responsibility of operator of residential aged care facility

The Minister directs that the operator of a residential aged care facility must take all reasonable steps to ensure that a person does not enter or remain on the premises of the facility in contravention of clause 5 or 6.

8 Exemption

The Minister may, in writing and subject to conditions the Minister considers appropriate, exempt a person from the operation of this Order if the Minister is satisfied it is necessary to protect the health and wellbeing of the residents or staff of a residential aged care facility.

9 Residents of residential aged care facility

To remove any doubt, nothing in this Order is to be taken to prevent a resident of a residential aged care facility from entering or remaining on the premises of the facility.

10 Repeal and savings

- (1) The *Public Health (COVID-19 Aged Care Facilities) Order (No 3) 2020* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Public Health (COVID-19 Aged Care Facilities) Order (No 3) 2020*, had effect under that Order continues to have effect under this Order.