



New South Wales

# Public Health (COVID-19 Air Transportation Quarantine) Order (No 2) 2020

under the

Public Health Act 2010

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

Dated 24 June 2020 (original order).

As amended on 29 June 2020 at 9 pm and 7 August 2020.

Minister for Health and Medical Research

## Explanatory note

The object of this Order is to deal with the public health risk of COVID-19 and its possible consequences by giving a Ministerial direction that a person who arrives in New South Wales by aircraft and has been in a country other than Australia within 14 days before that arrival must undertake mandatory quarantine for a period of 14 days. The Order makes a different direction for the flight crew of aircraft allowing those persons to quarantine at their residence or accommodation before departing from New South Wales by aircraft.

Section 10 of the *Public Health Act 2010* creates an offence if an individual fails to comply with a direction with a maximum penalty of imprisonment for 6 months or a fine of up to \$11,000 (or both) plus a further \$5,500 fine each day the offence continues. Corporations that fail to comply with a direction are liable to a fine of \$55,000 and \$27,500 each day the offence continues.

## Editorial note

This is the order as amended by the *Public Health (COVID-19 Air Transportation and Maritime Quarantine) Amendment Order (No 2) 2020* and the *Public Health (COVID-19 Border Control) Amendment Order (No 2) 2020*.

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## Public Health (COVID-19 Air Transportation Quarantine) Order (No 2) 2020

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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) 2020*.

#### 2 Commencement

This Order commences at the beginning of 25 June 2020.

#### 3 Definitions

(1) In this Order—

**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 section 31 of that Act.

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

**full day** means a period of 24 hours commencing at 12.00 am and ending at 12.00 am on the following day.

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

**quarantine facility** means premises designated as a quarantine facility under clause 8.

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

- (a) starting when the person arrives in New South Wales, and
- (b) ending when the sooner of the following occurs—
  - (i) at least 14 full days have passed and, having regard to any testing carried out by or on behalf of NSW Health, the Chief Health Officer is satisfied that the person does not pose a risk of infecting any other person with COVID-19,
  - (ii) 24 full days have passed.

**relevant person** means a person to whom a direction is given under clause 5.

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

**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.

**Note.** Section 128 of the *Public Health Act 2010* provides for the delegation of the Chief Health Officer's functions.

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

It is noted that 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 international outbreaks of COVID-19, listed in the Act as Novel Coronavirus 2019,
- (b) COVID-19 is a potentially fatal condition and is also highly contagious,
- (c) a number of cases of individuals with COVID-19 have now been confirmed in NSW, as well as other Australian jurisdictions.

## Part 2 Quarantine

### 5 Directions—persons arriving in NSW by aircraft (other than flight crew)

- (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 person required to go to a quarantine facility or medical facility under subclause (1) must comply with any determination of the Commissioner of Police in relation to the person's transit at the airport or travel to the quarantine facility or medical facility.
- (3) The directions under this clause do not apply to a person who arrives in New South Wales—
  - (a) in the person's capacity as a member of the flight crew of an aircraft, or
  - (b) under a current entry permit under the *Public Health (COVID-19 Border Control) Order 2020* (other than a permit mentioned in item 1 or 8 of Schedule 1 to that Order).
- (4) In this clause, **relevant person** means a person who—
  - (a) arrives in New South Wales by aircraft and who has, within 14 days immediately before that arrival, been in Victoria or a country other than Australia, or
  - (b) is asked to comply with clauses 5 and 6 of this Order by an enforcement officer under a direction by the Minister given under clause 8 of the *Public Health (COVID-19 Border Control) Order 2020*.

### 6 Direction—entering and remaining at quarantine facility or medical facility

- (1) The Minister directs that a relevant person 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 unless—
  - (a) the Commissioner directs otherwise, or
  - (b) there is an emergency that requires the person to leave the quarantine facility or medical facility.
- (2) A relevant 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.
- (3) A person must not enter a quarantine facility or a part of a medical facility being used to quarantine persons under this Order unless the person 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 a person in the quarantine facility or part of the medical facility, or
  - (d) entering because of an emergency, or
  - (e) a person carrying out functions necessary for the ordinary operation of the quarantine facility or medical facility.
- (4) A person at a quarantine facility or a part of a medical facility being used to quarantine persons under this Order must not provide another person with access to the facility or the part of the facility unless the other person 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 a person in the quarantine facility or part of the medical facility, or
- (d) entering because of an emergency, or
- (e) a person carrying out functions necessary for the ordinary operation of the quarantine facility or medical facility.

## 7 Directions—flight crew

- (1) The Minister directs that a person who arrives in New South Wales as a member of the flight crew of an aircraft and who has, within 14 days immediately before that arrival, been in a country other than Australia must go directly to the person's residence or accommodation until the sooner of the following happens—
  - (a) the quarantine period ends,
  - (b) the person departs on another flight that leaves New South Wales.
- (2) The Minister directs that, while residing at the residence or accommodation under a direction under this Order, the person must do the following—
  - (a) not leave the residence or accommodation except—
    - (i) to undertake duties that are essential for safety or 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 or accommodation unless—
    - (i) that other person usually lives at the residence or accommodation 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 purpose of delivering food or essential items,
  - (c) otherwise comply with the *NSW Health Air Transportation Guidelines*.
- (3) The Minister directs that the person's employer must—
  - (a) arrange appropriate transportation for the person for any travel under this clause to the person's residence or accommodation, and
  - (b) if, before the quarantine period ends, the person is departing New South Wales on a flight, arrange appropriate transportation for the person for any travel under this clause to the airport, and
  - (c) if the person does not have a place of residence at which the person can stay until the person is able to depart on another flight that leaves New South Wales or until the quarantine period ends—arrange appropriate accommodation for the person, and
  - (d) ensure the person complies with any requirements in the *NSW Health Air Transportation Guidelines*, in relation to the person's transportation or accommodation under this clause.
- (4) In this clause *NSW Health Air Transportation Guidelines* means the *NSW Health Air Transportation Guidelines*—
  - (a) issued by the Chief Health Officer, and
  - (b) published on the website of NSW Health.

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

**8 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.

**9 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.

**10 Exemption**

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

## Part 3 Repeal and savings provisions

### 11 Repeal of Order

The *Public Health (COVID-19 Air Transportation Quarantine) Order 2020* is repealed on the commencement of this Order.

### 12 Savings

- (1) If, immediately before the commencement of this Order, a person was the subject of a quarantine order under the repealed Order, that quarantine period continues under this Order as if the repealed Order remained in force.
- (2) If, immediately before the commencement of this Order, a designation or direction made by the Commissioner of Police under the repealed Order was in force, that designation or direction continues as if it were made under this Order.
- (3) If, immediately before the commencement of this Order, an exemption granted by the Minister under the repealed Order was in force, that exemption continues as if it were granted under this Order.
- (3A) If, immediately before the commencement of this Order, a delegation by the Commissioner of Police under the repealed Order was in effect, that delegation has effect as if it were made for the purposes of this Order.
- (4) In this clause—  
*repealed Order* means the *Public Health (COVID-19 Air Transportation Quarantine) Order 2020*.

### 13 Transitional arrangement for Public Health (COVID-19 Air Transportation and Maritime Quarantine) Amendment Order (No 2) 2020

To remove any doubt, the definition of *quarantine period* in clause 3(1), as substituted by the *Public Health (COVID-19 Air Transportation and Maritime Quarantine) Amendment Order (No 2) 2020* (the *Amendment Order*), applies to a person who was subject to a direction under clause 6(1) immediately before the commencement of the Amendment Order.