



New South Wales

# Public Health (COVID-19 Air Transportation Quarantine) 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 (original order).  
As amended on 20 December 2020 and 9 January 2021.

Minister for Health and Medical Research

## Explanatory note

The object of this Order is to repeal and remake the *Public Health (COVID-19 Air Transportation Quarantine) Order (No 3) 2020* with some amendments, including by giving Ministerial directions for the testing of certain workers whose functions or services relate to a quarantine facility in accordance with a testing program approved by the Chief Health Officer of the Ministry of Health.

## Editorial note

This is the order as amended by the *Public Health (COVID-19 Air Transportation Quarantine) Order (No 4) Amendment (Flight Crew) Order 2020* and the *Public Health (COVID-19 Air Transportation Quarantine) Order (No 4) Amendment Order 2021*.

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## Public Health (COVID-19 Air Transportation Quarantine) Order (No 4) 2020

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### Part 1 Preliminary

#### 1 Name of Order

This Order is the *Public Health (COVID-19 Air Transportation Quarantine) Order (No 4) 2020*.

#### 2 Commencement

This Order commences at the beginning of 14 December 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.

**declared flight crew member**—see clause 10.

**designated worker** means the following—

- (a) a registered health practitioner,
- (b) a person who works in a public hospital,
- (c) a person who works in a private health facility licensed under the *Private Health Facilities Act 2007*,
- (d) a person who works in a facility at which residential care, within the meaning of the *Aged Care Act 1997* of the Commonwealth, is provided,
- (e) an NDIS worker within the meaning of the *National Disability Insurance Scheme (Worker Checks) Act 2018*.

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

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

**flight crew member** includes a member of a positioning crew.

**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.

**member of a positioning crew** means a person who—

- (a) is identified as a member of a positioning crew—

- (i) in the flight manifest of the flight on which the person arrived in New South Wales, or
  - (ii) in a letter from the person's employer or the airline the person will be flying for, and
- (b) has documentary evidence of the flight, including the date of the flight, on which the person will leave Australia.

***New Zealand COVID-19 hotspot*** means an area in New Zealand specified by the Chief Health Officer as a New Zealand COVID-19 hotspot by a notice published on the website of the New South Wales Government.

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

***NSW Health Air Transportation Guidelines*** means the *NSW Health Air Transportation Guidelines* published on the website of NSW Health, as in force for the time being, and includes amendments made to the Guidelines from time to time.

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

***NSW Testing Program*** means the document entitled *Quarantine Worker Surveillance and Testing Program* approved by the Chief Health Officer and published on the website of NSW Health, as in force for the time being.

***Onward Domestic Travel of International Aircrew guideline*** means the guideline for *Onward Domestic Travel of International Aircrew* approved by the Chief Health Officer and published on the website of the New South Wales Government.

***quarantine facility*** means premises designated as a quarantine facility under clause 12.

***quarantine period***, for a person arriving in New South Wales, means 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 for COVID-19, 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.

***quarantined person*** means—

- (a) a relevant person, and
- (b) a person who is subject to a direction from the Chief Health Officer under clause 6(2)(a) or (b).

***relevant flight crew member*** means a flight crew member who—

- (a) arrives in New South Wales as a flight crew member, and
- (b) has, within 14 days immediately before the member's arrival, been in a country other than Australia or New Zealand.

***relevant person*** means—

- (a) a person who—
  - (i) arrives in New South Wales by aircraft, and
  - (ii) has, within 14 days immediately before the person's arrival, been in a country other than Australia or New Zealand, or
- (b) a relevant flight crew member.

***test for COVID-19*** means a test for COVID-19 carried out by, or on behalf of, NSW Health.

***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.

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

It is noted 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) 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.

## Part 2 Quarantine

### 5 Directions—persons arriving in NSW by aircraft, including flight crew members

- (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 relevant person must comply with any determination of the Commissioner of Police in relation to the person's transit at the airport and travel to the quarantine facility or medical facility.
- (3) The directions under this clause do not apply to a declared flight crew member or an interstate flight crew member within the meaning of clause 11A.

### 5A Directions—flight crew arriving from New Zealand

- (1) This clause applies to a flight crew member who arrives in Australia from New Zealand.
- (2) The Minister directs that a flight crew member to whom this clause applies must give a written declaration to a member of the NSW Health Service about whether the flight crew member has been in a country other than Australia or New Zealand in the previous 14 days.
- (3) The Minister directs that a flight crew member who provides information under this clause must ensure the information is true and accurate.

### 6 Directions—persons arriving from New Zealand COVID-19 hotspot

- (1) This clause applies to a person—
  - (a) who arrives in Australia from New Zealand, and
  - (b) who is not a relevant person, and
  - (c) who—
    - (i) has been in a New Zealand COVID-19 hotspot in the previous 14 days, or
    - (ii) is assessed by the Chief Health Officer to pose an unacceptable public health risk of transmission of COVID-19.
- (2) The Minister directs that a person to whom this clause applies must do one of the following as determined by the Chief Health Officer—
  - (a) go directly to a quarantine facility,
  - (b) go directly to a medical facility for treatment,
  - (c) immediately leave Australia by air.
- (3) The Minister directs that a person who is the subject of a direction by the Chief Health Officer under subclause (2) must comply with any determination of the Commissioner of Police in relation to the person's transit at the airport and travel.

### 7 Directions—entering, remaining and departing quarantine or medical facilities

- (1) The Minister directs that a quarantined person, other than a relevant flight crew member, to whom a direction is given under clause 5 or 6 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.

- (2) The Minister directs that a quarantined person who is a relevant flight crew member to whom a direction is given under clause 5 or 6 must remain at the quarantine facility or medical facility, or another quarantine facility or medical facility as directed by the Commissioner of Police, until the sooner of the following happens—
  - (a) the quarantine period ends,
  - (b) the person departs on an international flight, including an international flight that stops in another State or a Territory before leaving Australia, in circumstances where the person has—
    - (i) undergone a test for COVID-19 before leaving the airport on arrival in New South Wales, and
    - (ii) complied with any request of the Chief Health Officer to undergo testing for COVID-19 after leaving the airport and before the departure.
- (3) Despite subclauses (1) and (2), a quarantined person is not required to remain at a quarantine facility or medical facility if—
  - (a) the Commissioner directs otherwise, or
  - (b) there is an emergency that requires the person to leave the quarantine facility or medical facility.
- (4) A quarantined person who is not required to remain at a quarantine facility or medical facility under subclause (3)(b) must comply with any directions given by the Commissioner of Police in relation to the remainder of the quarantine period.
- (5) A quarantined 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.
- (6) A quarantined person who is a relevant flight crew member must, while travelling to the airport or transiting at the airport for the purposes of departing on another flight that leaves New South Wales, comply with any directions given by the Commissioner of Police.
- (7) The Minister directs that the relevant flight crew member's employer must arrange appropriate transportation for the member for any travel under subclause (6).
- (8) Subject to the requirements specified in clause 8, a person must not enter a quarantine facility or a part of a medical facility being used to quarantine persons under a relevant Order unless the person is a permitted person.
- (9) A person at a quarantine facility or a part of a medical facility being used to quarantine persons under a relevant Order must not provide another person with access to the facility or the part of the facility unless the other person is a permitted person.
- (10) In this clause—

***permitted person***, in relation to entering or accessing a quarantine facility or a part of a medical facility being used to quarantine persons under a relevant Order, means a person who is—

  - (a) a police officer, or
  - (b) entering or accessing at the direction of a police officer, or
  - (c) entering or accessing for the purposes of providing medical treatment or care to a person in the quarantine facility or a part of the medical facility, or
  - (d) entering or accessing because of an emergency, or
  - (e) a person carrying out functions or providing services necessary for the ordinary operation of the quarantine facility or medical facility.

*relevant Order* means this Order or the *Public Health (COVID-19 Maritime Quarantine) Order (No 4) 2020*.

#### **8 Directions—testing of designated quarantine facility workers**

- (1) This clause applies to a *designated quarantine facility worker*, being a person—
  - (a) who is a permitted person within the meaning of clause 7(10)(a), (c) or (e) in relation to a quarantine facility, and
  - (b) who, in the course of the person’s employment, carries out functions or provides services in relation to the quarantine facility, and
  - (c) who is specified in the NSW Testing Program as a person or a member of a class of persons to whom this clause applies.
- (2) The Minister directs that a designated quarantine facility worker must not carry out, or continue to carry out, functions or provide, or continue to provide, services in relation to a quarantine facility unless the worker is tested for COVID-19 in accordance with the requirements set out in the NSW Testing Program.

**Note.** A person who is diagnosed with COVID-19 is required to self-isolate under other public health orders made by the Minister.
- (3) Without limiting the requirements that may be set out in the NSW Testing Program, the requirements may provide that a designated quarantine facility worker must be tested for COVID-19 in the course of, rather than before, carrying out the functions or providing the services.
- (4) The Minister directs that a designated quarantine facility worker who is not tested in accordance with subclause (2) must not enter, or remain at, a quarantine facility for the purposes of carrying out functions or providing services in relation to the quarantine facility unless the worker is tested for COVID-19, whether at the facility or elsewhere.
- (5) Despite subclauses (2) and (4), the Minister directs that a designated quarantine facility worker—
  - (a) may enter, or carry out functions or provide services in relation to, a quarantine facility if otherwise directed by the Commissioner of Police or the Chief Health Officer, and
  - (b) must not enter, or carry out functions or provide services in relation to, a quarantine facility if the Chief Health Officer is satisfied that the worker poses a risk of infecting another person with COVID-19.

#### **9 Directions—testing of designated transportation providers**

- (1) This clause applies to a *designated transportation provider*, being a person—
  - (a) who, in the course of the person’s employment, provides a transportation service for a relevant person directly to, or directly from, a quarantine facility, and
  - (b) who is specified in the NSW Testing Program as a person or a member of a class of persons to whom this clause applies.
- (2) The Minister directs that a designated transportation provider must not provide, or continue to provide, a transportation service referred to in subclause (1)(a) unless the provider is tested for COVID-19 in accordance with the requirements set out in the NSW Testing Program.

**Note.** A person who is diagnosed with COVID-19 is required to self-isolate under other public health orders made by the Minister.
- (3) Without limiting the requirements that may be set out in the NSW Testing Program, the requirements may provide that a designated transportation provider must be



tested for COVID-19 in the course of, rather than before, providing a transportation service referred to in subclause (1)(a).

- (4) Despite subclause (2), the Minister directs that a designated transportation provider—
- (a) may provide a transportation service if otherwise directed by the Commissioner of Police or the Chief Health Officer, and
  - (b) must not provide a transportation service referred to in subclause (1)(a) if the Chief Health Officer is satisfied that the provider poses a risk of infecting another person with COVID-19.

#### 10 Directions—declared flight crew members

- (1) This clause applies to a relevant flight crew member (a *declared flight crew member*) who—
- (a) is ordinarily resident in New South Wales, and
  - (b) has, before leaving the airport, undergone a test for COVID-19, and
  - (c) has, before leaving the airport, given a written declaration to a member of the NSW Health Service that includes the following—
    - (i) the member's full name and date of birth,
    - (ii) the address of the member's place of residence in New South Wales,
    - (iii) the member's telephone number or email address,
    - (iv) a statement that the member has not, within 14 days immediately before the member's arrival in New South Wales, been in contact with a person with COVID-19,
    - (v) a statement that the member does not have, and has not had within 72 hours immediately before the member's arrival in New South Wales, any symptoms of COVID-19,  
**Example.** Examples of symptoms of COVID-19 include a fever, sore throat, cough, shortness of breath or loss of taste or smell.
    - (vi) a statement that the no other person who ordinarily lives at the member's place of residence is a designated worker.
- (2) The Minister directs that a declared flight crew member who provides information under this clause must ensure the information is true and accurate.
- (3) The Minister directs that a declared flight crew member must go directly to the member's residence until the sooner of the following happens—
- (a) the quarantine period ends,
  - (b) the member departs on an international flight, including an international flight that stops in another State or a Territory before leaving Australia, in circumstances where the member has complied with any request of the Chief Health Officer to undergo testing for COVID-19 before the departure.
- (4) The Minister directs that, while residing at the member's residence under a direction under this Order, the member must do the following—
- (a) not leave the residence except—
    - (i) to undertake duties that are essential for safety or for 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 unless—

- (i) the other person usually lives at the residence, or
  - (ii) the entry is for medical or emergency purposes, or
  - (iii) the entry is to a place, other than a dwelling, for the purpose of delivering food or essential items,
- (c) comply with the *NSW Health Air Transportation Guidelines*.

#### 11 Direction—declared flight crew members' employers

The Minister directs that an employer of a declared flight crew member to whom a direction is given under clause 10 must—

- (a) arrange appropriate transportation for the declared flight crew member for any travel under the clause to the member's residence, and
- (b) if, before the quarantine period ends, the declared flight crew member is departing Australia on a flight, arrange appropriate transportation for the member for any travel under the clause to the airport, and
- (c) ensure the declared flight crew member complies with any requirements in the *NSW Health Air Transportation Guidelines* in relation to the member's transportation to, and accommodation at, the member's residence under this clause.

#### 11A Directions—interstate flight crew members

(1) In this clause—

***interstate flight crew member*** means a relevant flight crew member who—

- (a) is ordinarily resident in another State or Territory, and
- (b) has, before leaving the airport, undergone a test for COVID-19, and
- (c) has, before leaving the airport, given a written declaration to a member of the NSW Health Service that includes the following—
  - (i) the member's full name and date of birth,
  - (ii) the address of the member's place of residence in the other State or Territory,
  - (iii) the member's telephone number or email address,
  - (iv) a statement that the member has not, within 14 days immediately before the member's arrival in New South Wales, been in contact with a person with COVID-19,
  - (v) a statement that the member does not have, and has not had within 72 hours immediately before the member's arrival in New South Wales, any symptoms of COVID-19.

**Example.** Examples of symptoms of COVID-19 include a fever, sore throat, cough, shortness of breath or loss of taste or smell.

***suitable transport*** means transport—

- (a) if travelling to the Australian Capital Territory—
    - (i) by private vehicle, or
    - (ii) by an aeroplane that has no passengers other than interstate flight crew members, or
  - (b) in all other cases, an aeroplane that has no passengers other than interstate flight crew members.
- (2) The Minister directs that an interstate flight crew member who provides information under this clause must ensure the information is true and accurate.
- (3) The Minister directs that an interstate flight crew member must go directly to—

- (a) the member's residence using suitable transport arranged by the member's employer, or
  - (b) a quarantine facility as directed by the Commissioner of Police.
- (4) The Minister directs that an interstate flight crew member who goes to a quarantine facility must remain at the facility until—
- (a) the member departs New South Wales on suitable transport arranged by the member's employer in circumstances where the member has complied with any request of the Chief Health Officer to undergo testing for COVID-19 before the departure, or
  - (b) the Commissioner directs otherwise, or
  - (c) there is an emergency that requires the member to leave the quarantine facility.
- (5) The Minister directs that an interstate flight crew member who goes to a quarantine facility must, while remaining at the facility, comply with any conditions decided, or directions given, by the Commissioner of Police.
- (6) The Minister directs that an interstate flight crew member who travels to the member's residence must comply with the Onward Domestic Travel of International Aircrew guideline when travelling to the member's residence.

**11B Direction—declared flight crew members' employers**

The Minister directs that an employer of an interstate flight crew member to whom a direction is given under clause 11A(3), (4) or (6) must ensure the member complies with the Onward Domestic Travel of International Aircrew guideline when travelling to the member's residence.

**12 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.

**13 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.

## Part 3 Miscellaneous

### 14 Exemption

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

### 15 Repeal and savings

- (1) The *Public Health (COVID-19 Air Transportation Quarantine) Order (No 3) 2020* (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 made for the purposes of the repealed Order was in force, the delegation continues as if it were made for the purposes of this Order.

### 16 Provisions consequent on Public Health (COVID-19 Air Transportation Quarantine) Order (No 4) Amendment (Flight Crew) Order 2020—existing directions

A person who was, immediately before the commencement of the *Public Health (COVID-19 Air Transportation Quarantine) Order (No 4) Amendment (Flight Crew) Order 2020*, subject to a direction under clause 10 or 11 must continue to comply with the direction.