



New South Wales

# Public Health (COVID-19 Air Transportation Quarantine) Order (No 4) 2021

under the

Public Health Act 2010

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

Dated 26 November 2021 (original order).

As amended on 27 November 2021, 28 November 2021 and 30 November 2021.

Minister for Health and Medical Research

## Explanatory note

The object of this Order is to repeal and remake, with some changes, the *Public Health (COVID-19 Air Transportation Quarantine) Order (No 3) 2021*.

## Editorial note

This is the order as amended by the *Public Health (COVID-19 Air Transportation Quarantine) Order (No 4) Amendment (Omicron Variant) 2021*, the *Public Health (COVID-19 Air Transportation Quarantine) Order (No 4) Amendment (Transiting Arrivals) 2021* and the *Public Health (COVID-19 Air Transportation Quarantine) Order (No 4) Amendment (Further Provisions) 2021*.

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## Public Health (COVID-19 Air Transportation Quarantine) Order (No 4) 2021

under the

Public Health Act 2010

### Part 1 Preliminary

#### 1 Name of Order

This Order is the *Public Health (COVID-19 Air Transportation Quarantine) Order (No 4) 2021*.

#### 2 Commencement

This Order commences at the beginning of 27 November 2021.

#### 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 infection with the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2),
- (b) COVID-19 is a potentially fatal condition and is highly contagious,
- (c) there is an ongoing risk of continuing introduction and transmission of COVID-19 in New South Wales, particularly from overseas arrivals who are unvaccinated.

#### 5 Quarantine period

- (1) The *quarantine period* for a person arriving in New South Wales is determined, for the purposes of this Order, in accordance with this clause.
- (2) The quarantine period starts when the person arrives in New South Wales.
- (3) The quarantine period ends if—
  - (a) at least 14 full days have passed since the person arrived in New South Wales, and
  - (b) the Chief Health Officer is satisfied that, having regard to any testing for COVID-19, the person does not pose a risk of infecting another person with COVID-19.

- (4) Otherwise, if the quarantine period has not ended earlier in accordance with this clause, the quarantine period for a person ends when 24 full days have passed since the person arrived in New South Wales.

## Part 2 Quarantine

### 6 Introduction

This Part sets out directions of the Minister about quarantine.

### 7 Interpretation

A provision of this Part applicable to a relevant person does not apply to a relevant person who is a fully vaccinated arrival.

**Not—** Part 3 sets out directions of the Minister concerning relevant persons who are fully vaccinated arrivals.

### 8 Persons arriving in NSW by aircraft, including flight crew members

- (1) 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) 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) This clause does not apply to an unvaccinated overseas flight crew member.  
**Note—** See clause 16 for directions concerning unvaccinated overseas flight crew members.

### 9 Persons arriving in NSW by land

- (1) This clause applies to a person who—
  - (a) arrives in New South Wales by land, and
  - (b) has, within 14 days immediately before the person's arrival, been in a country other than Australia, and
  - (c) is assessed by the Chief Health Officer to pose an unacceptable public health risk of transmission of COVID-19.
- (2) 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.
- (3) A person who is the subject of a direction by the Chief Health Officer under subclause (2) must comply with a determination of the Chief Health Officer in relation to the person's travel to the quarantine facility or medical facility.
- (4) A person who is the subject of a direction by the Chief Health Officer under subclause (2) must—
  - (a) comply with the requirements of clause 10 as if the person were a relevant person to whom a direction is given under clause 8, and
  - (b) while remaining at the facility, comply with any other conditions decided, or other directions given, by the Commissioner of Police.

### 10 Entering, remaining and departing quarantine or medical facilities

- (1) A relevant person, other than a relevant flight crew member, to whom a direction is given under clause 8 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) A relevant person who is a relevant flight crew member to whom a direction is given under clause 8 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 relevant 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 relevant 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 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.
- (6) A relevant 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 relevant flight crew member's employer must arrange approved transportation for the member for any travel under subclause (6).
- (8) Subject to the requirements specified in clause 12, 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 for the purposes of complying with a direction applicable to the person under the Self-Isolation Order, or
  - (e) entering or accessing because of an emergency, or

- (f) a person exercising functions or providing services necessary for the ordinary operation of the quarantine facility or medical facility.

**relevant Order** means this Order or the Maritime Quarantine Order.

## 11 Wearing of fitted face coverings

- (1) A person entering, remaining at or departing a quarantine facility who is a relevant person must wear a fitted face covering over the person's nose and mouth at all times—
  - (a) when the person is being transported to or from the quarantine facility, and
  - (b) when the person is remaining at the quarantine facility, other than when the person is in the room assigned to the person at the facility.
- (2) A person who enters or remains at a quarantine facility, other than a person specified in subclause (1), must wear a fitted face covering over the person's nose and mouth at all times when the person is at the quarantine facility.
- (3) A person transporting, or in or on a vehicle with, a person specified in subclause (1) must wear a fitted face covering over the person's nose and mouth at all times when the person specified in subclause (1) is being transported.
- (4) Subclauses (1)–(3) do not apply to the following persons—
  - (a) a person aged 12 years or under,
  - (b) a person with a physical or mental health illness or condition, or disability, that makes wearing a fitted face covering unsuitable including, for example, a skin condition, an intellectual disability, autism or trauma.
- (5) Despite subclauses (1)–(3), a person may remove a fitted face covering the person is otherwise required to wear in the following circumstances—
  - (a) the person is eating or drinking,
  - (b) the person is communicating with another person who is deaf or hard of hearing,
  - (c) the person is asked to remove the fitted face covering to ascertain the person's identity,
  - (d) because of an emergency.
- (6) Despite subclause (2), a person may remove a fitted face covering the person is otherwise required to wear in the following circumstances—
  - (a) the person is at work and the nature of the person's work—
    - (i) makes the wearing of a fitted face covering a risk to the person's, or another person's, health and safety, or
    - (ii) means clear enunciation or visibility of the person's mouth is essential,
  - (b) the removal of the fitted face covering is necessary for the proper provision of the goods or service.
- (7) A person who removes the person's fitted face covering under subclause (5) or (6) must resume wearing the fitted face covering as soon as practicable after the circumstance ends.
- (8) In this clause—

**fitted face covering** means a mask or other covering that—

  - (a) fits securely around the face, and
  - (b) is designed or made to be worn over the nose and mouth to provide the wearer with protection against infection.



## 12 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 10(10), definition of *permitted person*, paragraph (a), (c) or (f) in relation to a quarantine facility, and
  - (b) who, in the course of the person's employment, exercises 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) A designated quarantine facility worker must not exercise, or continue to exercise, 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 while, rather than before, exercising the functions or providing the services.
- (4) 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 exercising 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), a designated quarantine facility worker—
  - (a) may enter, or exercise 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 exercise functions or provide services in relation to, a quarantine facility if the Chief Health Officer is satisfied the worker poses a risk of infecting another person with COVID-19.

## 13 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 to a relevant person, 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) 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 while, rather than before, providing a transportation service referred to in subclause (1)(a).

- (4) Despite subclause (2), 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 the provider poses a risk of infecting another person with COVID-19.
- (5) Subclause (2) does not apply to—
  - (a) an unvaccinated overseas flight crew member who uses approved personal transportation, or
  - (b) a designated transportation provider providing an unvaccinated overseas flight crew member with transportation to or from the member's residence for the purposes of obtaining urgent medical care or medical supplies.

#### **14 Testing of designated airport workers**

- (1) This clause applies to a *designated airport worker*, being a person—
  - (a) who, in the course of the person's employment, exercises functions or provides services at an airport, 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) A designated airport worker must not exercise, or continue to exercise, functions or provide, or continue to provide, services at an airport 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 airport worker must be tested for COVID-19 while, rather than before, exercising the functions or providing the services.
- (4) A designated airport worker who is not tested in accordance with subclause (2) must not enter, or remain at, an airport for the purposes of exercising functions or providing services at the airport unless the worker is tested for COVID-19, whether at the airport or elsewhere.
- (5) Despite subclauses (2) and (4), a designated airport worker—
  - (a) may enter, or exercise functions or provide services at, an airport if otherwise directed by the Commissioner of Police or the Chief Health Officer, and
  - (b) must not enter, or exercise functions or provide services at, an airport if the Chief Health Officer is satisfied the worker poses a risk of infecting another person with COVID-19.

#### **15 Person who employs particular workers and service providers**

- (1) A person who employs a designated quarantine facility worker—
  - (a) must not permit the worker, in the course of the worker's employment, to exercise functions or provide services in relation to a quarantine facility unless the worker is tested for COVID-19 as required under clause 12, and
  - (b) if the person is aware the worker has not been tested as required under clause 12—must notify the Chief Health Officer that the worker has not been tested.
- (2) A person who employs a designated transportation provider—

- (a) must not permit the provider, in the course of the provider's employment, to exercise functions or provide transportation services unless the provider is tested for COVID-19 as required under clause 13, and
  - (b) if the person is aware the provider has not been tested as required under clause 13—must notify the Chief Health Officer that the provider has not been tested.
- (3) A person who employs a designated airport worker—
- (a) must not permit the worker, in the course of the worker's employment, to exercise functions or provide services at an airport unless the worker is tested for COVID-19 as required under clause 14, and
  - (b) if the person is aware the worker has not been tested as required under clause 14—must notify the Chief Health Officer that the worker has not been tested.

## **16 Unvaccinated overseas flight crew members**

- (1) This clause applies to a flight crew member (an *unvaccinated overseas flight crew member*) who—
- (a) has, within 14 days immediately before arriving in New South Wales, been in a country other than Australia, and
  - (b) is not a fully vaccinated arrival.
- (2) An unvaccinated overseas flight crew member must go directly to the member's place of residence or accommodation until the sooner of the following happens—
- (a) the quarantine period ends,
  - (b) the member departs on another flight that leaves Australia.
- (3) An unvaccinated overseas flight crew member may go to a place of residence as required by subclause (2) only if the member is a resident of New South Wales.
- (4) An unvaccinated overseas flight crew member must do the following while residing at the member's place of residence or accommodation—
- (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 another person to enter the place of residence or accommodation unless—
    - (i) the person usually lives at the place of residence or accommodation or the 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 place of residence, for the purpose of delivering food or essential items,
  - (c) otherwise comply with the NSW Health Air Transportation Guidelines.
- (5) The employer of an unvaccinated overseas flight crew member must—
- (a) arrange approved transportation for the member for travel under this clause to the member's place of residence or accommodation, and
  - (b) if, before the quarantine period ends, the member is departing New South Wales on a flight—arrange approved transportation for the member for travel under this clause to the airport, and

- (c) if the member 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 member, and
- (d) ensure the member complies with any requirements in the NSW Health Air Transportation Guidelines in relation to the member's transportation or accommodation under this clause.

**17 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.

**18 Advice provided by Chief Health Officer**

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 Provisions for relevant persons who are fully vaccinated arrivals

### 19 Introduction

This Part sets out directions of the Minister about tests for COVID-19 for relevant persons who are fully vaccinated arrivals.

**Note**— Commonwealth law regulates the circumstances under which persons are allowed to enter or leave Australia by air. This may include requirements for negative test results for COVID-19, whether before or after arrival or before departure.

### 20 Fully vaccinated arrivals to comply with certain guidelines

- (1) A relevant person who is a fully vaccinated arrival must comply with the relevant guidelines for 14 days after the person arrives, including in relation to tests for COVID-19 and restrictions or limitations about attending premises.
- (2) Subclause (1) ceases to apply to the relevant person before the expiry of the 14 days if—
  - (a) at least 7 full days have passed since the person arrived in New South Wales, and
  - (b) at least 6 full days after the person's arrival, the person undergoes a test for COVID-19, and
  - (c) the person is notified that the result for the test is negative.
- (3) The employer of a flight crew member who is a fully vaccinated arrival must ensure the person complies with the relevant guidelines until subclause (1) ceases to apply to the member.
- (4) In this clause—

**relevant guidelines** means the NSW Health Guidelines for Recent Fully Vaccinated Arrivals published on the website of NSW Health, as in force for the time being.

## **Part 3A Special provisions in response to emergence of Omicron variant**

### **20A Introduction**

This Part sets out directions of the Minister in response to the emergence of the Omicron variant of COVID-19.

### **20B Persons arriving in NSW from countries of concern**

- (1) Clause 8 extends to a relevant person, whether or not the person is a fully vaccinated arrival, who—
  - (a) arrives in New South Wales by aircraft, whether the flight originates interstate or overseas, and
  - (b) has, within 14 days immediately before the person's arrival in New South Wales, been in a country of concern.

**Note—** Clause 8 contains requirements for persons arriving in NSW who are not fully vaccinated persons.
- (2) This clause does not apply to a relevant flight crew member.

### **20C Persons who arrived in NSW from countries of concern before this Part commenced**

- (1) This clause applies to a relevant person, whether or not the person was a fully vaccinated arrival, who—
  - (a) arrived in New South Wales by aircraft before the commencement of this Part, whether the flight originated interstate or overseas, and
  - (b) has, within 14 days immediately before the commencement of this Part, been in a country of concern.
- (2) The person must—
  - (a) undergo a test for COVID-19 as soon as practicable, and
  - (b) travel to the person's residence or a place suitable for the person to reside in by the most practicable direct route, and
  - (c) self-isolate for a period of 14 days in accordance with clause 6 of the Self-Isolation Order as if the person were a diagnosed person, and
  - (d) immediately contact NSW Health on 1800 943 553.
- (3) This clause does not apply to a relevant flight crew member.

### **20D Persons arriving in NSW from other countries**

- (1) This clause applies to a relevant person, whether or not the person is a fully vaccinated arrival, who—
  - (a) arrives in New South Wales by aircraft, whether the flight originates interstate or overseas, and
  - (b) has, within 14 days immediately before the person's arrival in New South Wales, been in another country, but not a country of concern.
- (2) The person must—
  - (a) undergo a test for COVID-19 as soon as practicable, but no later than 24 hours after the person's arrival, and
  - (b) travel by the most practicable direct route to the person's residence or a place suitable for the person to reside in, and

- (c) self-isolate at the residence or place in accordance with clause 6 of the Self-Isolation Order as if the person were a diagnosed person until the later of the following—
  - (i) the expiry of a period of 3 days,
  - (ii) the person undergoes a test for COVID-19 and is notified that the result for the test is negative.
- (3) This clause does not apply to a relevant flight crew member.  
**Note—** Part 3 continues to apply to fully vaccinated arrivals.

**20E Overseas flight crew members**

Clause 16(2)–(5) extends to a relevant flight crew member, including a relevant flight crew member who arrived in New South Wales before the commencement of this Part.

**Note.** Clause 16 contains requirements for unvaccinated overseas flight crew members arriving in NSW.

**20F Relationship with other Parts of Order**

If a provision of this Part is inconsistent with a provision under another Part of this Order, the provision of this Part prevails to the extent of the inconsistency.

**20G Meaning of “most practicable direct route”**

In this Part, a requirement for a person to take the most practicable direct route does not prevent the person—

- (a) if the person is travelling by road—
  - (i) obtaining fuel for the vehicle or other necessary supplies for the vehicle or a person in the vehicle, or
  - (i) taking a rest stop, including an overnight rest stop or meal break, or
  - (iii) dealing with an emergency, or
- (b) if the person is travelling by rail or air—
  - (i) travelling directly to suitable accommodation while waiting to transit out of the State if the person self-isolates until the transit, or
  - (ii) dealing with an emergency.

## Part 4 Records and exchange of information

### 21 Introduction

This Part sets out directions of the Minister about provision of contact details, records and exchange of information.

### 22 Provision of contact details

- (1) A person who enters a quarantine facility must provide the person's contact details to the occupier of the premises in accordance with this clause.
- (2) The occupier of the premises must require a person specified in subclause (1) to provide the person's contact details in accordance with this clause.
- (3) A person is to provide the person's contact details by electronically registering the person's contact details with Service NSW using a mobile phone or other device at the time the person enters the quarantine facility.

**Example—**

Electronically registering a person's contact details may be by the use of a QR code or another electronic method that records the person's name, telephone number or email address and the time at which the person entered the premises.

- (4) The occupier of premises to whom a person's contact details are provided in the manner specified in subclause (3) must—
  - (a) keep, for at least 4 weeks, a record of the contact details, and
  - (b) on request, provide the record to the Chief Health Officer as soon as practicable, but no later than 4 hours, after the request is made, and
  - (c) ensure that a person is—
    - (i) responsible for requiring contact details to be provided in accordance with this clause, and
    - (ii) authorised to provide records to the Chief Health Officer under paragraph (b).
- (5) If a person required under this clause to provide contact details by electronic registration cannot complete the electronic registration because of age, disability or an inability to speak or comprehend the language used by the electronic registration device, another person may complete the registration on the person's behalf.
- (6) If a person is required under this clause to provide contact details by electronic registration but, because of unexpected circumstances, it is not possible to electronically register contact details—
  - (a) the person may provide the contact details directly to the occupier of the premises, and
  - (b) the occupier of the premises is to electronically register the contact details within 12 hours.

**Example—**

Unexpected circumstances for the purposes of this clause include a failure of internet service or a breakdown of all of the occupiers computers or other devices.

- (7) In this clause—

**contact details**, of a person who entered premises mentioned in subclause (1), means—

  - (a) the person's name, and
  - (b) the person's telephone number or email address, and
  - (c) the time at which the person entered the premises.



## Part 5 Transportation

### 23 Introduction

This Part sets out directions of the Minister about transportation.

### 24 Transportation providers

- (1) This clause applies to a person (a *transportation provider*) who provides a transportation service under this Order involving transporting—
  - (a) a relevant person who is not a fully vaccinated arrival—
    - (i) to or from a quarantine facility, or
    - (ii) from a quarantine facility to a medical facility, or
  - (b) an unvaccinated overseas flight crew member using approved transportation.
- (2) A transportation provider must comply with the NSW Health Air Transportation Guidelines.
- (3) A person who employs a transportation provider must ensure the provider complies with the NSW Health Air Transportation Guidelines.

### 25 Transportation of particular unvaccinated persons

- (1) A relevant unvaccinated person, and a person transporting or in or on a vehicle with a relevant unvaccinated person, must wear a fitted face covering over the person's nose and mouth at all times when the relevant unvaccinated person is being transported.
- (2) To avoid doubt, subclause (1) applies to the transportation of a relevant unvaccinated person, whether or not the relevant unvaccinated person is being transported to or from—
  - (a) an airport, a quarantine facility or a medical facility, or
  - (b) for a relevant unvaccinated person who is a relevant flight crew member—to the crew member's residence.
- (3) Subclause (1) does not apply to the following persons—
  - (a) a person aged 12 years or under,
  - (b) a person with a physical or mental health illness or condition, or disability, that makes wearing a fitted face covering unsuitable including, for example, a skin condition, an intellectual disability, autism or trauma.
- (4) Despite subclause (1), a person may remove a fitted face covering the person is otherwise required to wear in the following circumstances—
  - (a) the person is eating or drinking,
  - (b) the person is communicating with another person who is deaf or hard of hearing,
  - (c) the person is asked to remove the fitted face covering to ascertain the person's identity,
  - (d) because of an emergency.
- (5) A person who removes the person's fitted face covering under subclause (4) must resume wearing the fitted face covering as soon as practicable after the circumstance ends.
- (6) In this clause—  
*fitted face covering* means a mask or other covering that—

- (a) fits securely around the face, and
- (b) is designed or made to be worn over the nose and mouth to provide the wearer with protection against infection.

**relevant unvaccinated person** means a relevant person who is not a fully vaccinated arrival.

## 26 Directions of Commissioner of Police

- (1) A person who provides a transportation service to a relevant person under this Order must—
  - (a) comply with a direction of the Commissioner of Police at an airport or at a quarantine facility, and
  - (b) if requested by a police officer, provide the person's name and contact details.
- (2) A person who employs a person who provides a transportation service to a relevant person under this Order must, if requested by a police officer, provide the name and contact details of the person who provides the transportation service.

## 27 Name and contact details of certain transportation service providers

A person who transports any of the following persons is required to notify the Commissioner of Police of the person's name and contact details within 48 hours after providing the transportation service—

- (a) a relevant person who is not a fully vaccinated arrival if the person is transported to or from a quarantine facility,
- (b) a flight crew member who is not a fully vaccinated arrival if the member is provided with approved transportation.

## 28 Evidence about vaccination status

- (1) This clause applies to each of the following persons (an **affected person**)—
  - (a) a transportation provider,
  - (b) a person who has arrived in New South Wales and been overseas within the previous 14 days.
- (2) An affected person must provide a police officer with vaccination evidence if requested.
- (3) In this clause—

**vaccination evidence** means—

  - (a) for a transportation provider—documentation providing evidence the provider has—
    - (i) received the number of doses required for a complete course of a COVID-19 vaccine, or
    - (ii) a medical contraindication preventing the provider from receiving any COVID-19 vaccine, or
  - (b) for other persons—documentation providing evidence the provider has received the number of doses of a COVID-19 vaccine required to be fully immunised.

## Part 6 COVID-19 vaccinations

### 29 Introduction

This Part sets out directions of the Minister about COVID-19 vaccinations.

### 30 COVID-19 vaccinations

- (1) This clause applies to a person (a *nominated person*) specified in the NSW Airport and Quarantine Workers Vaccination Program as a person or a member of a class of persons to whom this clause applies if—
  - (a) the person—
    - (i) is a person mentioned in clause 10(10), definition of *permitted person*, paragraph (a), (c) or (f) in relation to a quarantine facility, and
    - (ii) exercises functions or provides services in relation to the quarantine facility in the course of the person's employment, or
  - (b) the person provides a transportation service to a relevant person in the course of the person's employment, or
  - (c) the person exercises functions or provides services at an airport in the course of the person's employment.
- (2) A nominated person must not, in the course of the person's employment, do any of the following, unless the person has been vaccinated against COVID-19—
  - (a) for a nominated person mentioned in subclause (1)(a)—enter, or provide services at, a quarantine facility,
  - (b) for a nominated person mentioned in subclause (1)(b)—provide the transportation service to a relevant person, including to or from an airport, quarantine facility, medical facility or to a crew member's residence,
  - (c) for a nominated person mentioned in subclause (1)(c)—enter, or provide services at, an airport.
- (3) Subclause (2) does not apply if—
  - (a) the person has—
    - (i) a medical contraindication certificate issued to the person, or
    - (ii) a medical contraindication recorded on the Australian Immunisation Register that prevents the person from receiving any approved COVID-19 vaccine available in New South Wales, or
  - (b) a nominated person specified in subclause (1)(b) is providing an unvaccinated overseas flight crew member with a transportation service to or from the member's residence for the purpose of obtaining urgent medical care or medical supplies.
- (4) A person who employs a nominated person must ensure that the nominated person complies with subclause (2).
- (5) A nominated person must produce the nominated person's vaccination evidence for inspection by the following people, if requested by the person to do so—
  - (a) the nominated person's employer,
  - (b) a police officer.
- (6) A nominated person's employer must produce the nominated person's vaccination evidence for inspection by a police officer, if requested by the police officer to do so.
- (7) In this clause—

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 any approved COVID-19 vaccine available in New South Wales.

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

***vaccinated against COVID-19*** means, in relation to a person—

- (a) the person has received 2 doses of a COVID-19 vaccine, or
- (b) the person has received 1 dose of a COVID-19 vaccine and receives the second dose of a COVID-19 vaccine—
  - (i) within 3 months of having received the first dose, or
  - (ii) within 28 days of the date of commencement of this Order.

## Part 7 Miscellaneous

### 31 Relationship of Order with Self-Isolation Order

- (1) A person to whom a direction is given under this Order must continue to comply with any directions applicable to the person under the Self-Isolation Order.
- (2) If a direction applicable to a person under this Order is inconsistent with a direction applicable to the person under the Self-Isolation Order, the direction under the Self-Isolation Order prevails to the extent of the inconsistency.

### 32 Exemptions

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

### 33 Repeal and savings

- (1) The *Public Health (COVID-19 Air Transportation Quarantine) Order (No 3) 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), 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) a notice given, or a direction or determination made, by the Chief Health Officer under the repealed Order was in force, the notice, direction or determination continues as if it was given or made under this Order, and
  - (d) 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
  - (e) 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.

## Schedule 1 Dictionary

clause 3

**approved COVID-19 vaccine** means a vaccine approved by the Therapeutic Goods Administration of the Commonwealth for use in Australia as a vaccine against COVID-19.

**approved personal transportation**, of an unvaccinated overseas flight crew member, means the use of a private vehicle that the unvaccinated overseas flight crew member drives or rides to or from their residence, with no passengers.

**approved transportation** means—

- (a) a transportation service provided by or on behalf of the Australian Defence Force, or
- (b) a transportation service by a flight crew transport service provider whose details have been notified to the Commissioner of Police under clause 27, or
- (c) approved personal transportation of an unvaccinated overseas flight crew member.

**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 that Act, section 31.

**country of concern** means the following—

- (a) Botswana,
- (b) Eswatini,
- (c) Lesotho,
- (d) Malawi,
- (e) Mozambique
- (f) Namibia,
- (g) (Repealed)
- (h) South Africa,
- (i) Zimbabwe.

**COVID-19 vaccine** means—

- (a) an approved COVID-19 vaccine, or
- (b) a vaccine, other than an approved COVID-19 vaccine, recognised by the Therapeutic Goods Administration of the Commonwealth as an appropriate vaccine against COVID-19 for incoming travellers to Australia.

**Note.** On the making of this Order, the recognised vaccines were specified in the document titled "COVID-19 vaccines not registered in Australia but in current international use – TGA advice on "recognition"", published on the website of the Therapeutic Goods Administration of the Commonwealth and dated 27 September 2021.

**designated airport worker**—see clause 14(1).

**designated quarantine facility worker**—see clause 12(1).

**designated transportation provider**—see clause 13(1).

**employ** includes engage a person as a contractor or subcontractor.

**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.

**flight crew transport service provider** means a person who provides a transportation service to an unvaccinated overseas flight crew member.

**full day** means a period of 24 hours commencing at 12am and ending at 12am on the following day.

**fully vaccinated arrival** means—

- (a) a person who, before arriving in New South Wales, has received the number of doses required for a complete course of a COVID-19 vaccine, or
- (b) a person aged under 12 years who, before arriving in New South Wales, has not received the number of doses required for a complete course of a COVID-19 vaccine, but only if the person is accompanied by a person mentioned in paragraph (a) who is aged 18 years or more.

**Maritime Quarantine Order** means the following—

- (a) the *Public Health (COVID-19 Maritime Quarantine) Order (No 4) 2021*,
- (b) 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).

**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.

**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.

**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.

**Note—**

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

**quarantine facility** means premises designated as a quarantine facility under clause 17.

**quarantine period**—see clause 5.

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

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

**relevant person** means—

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

**Self-Isolation Order** means the following—

- (a) the *Public Health (COVID-19 Self-Isolation) Order (No 3) 2021*,

(b) 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).

**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*.

**unvaccinated overseas flight crew member**—see clause 16.

**vaccination evidence** for a health care worker means evidence from the Australian Immunisation Register kept under the *Australian Immunisation Register Act 2015* of the Commonwealth that the worker has had 1 or more doses of a COVID-19 vaccine.

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