



New South Wales

Public Health (COVID-19 Border Control) Order 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 7th July 2020 (original order).

As amended on 20 July 2020, 22 July 2020 at 9.26 pm and 24 July 2020 at 2.30 pm.

Minister for Health and Medical Research

Explanatory note

The object of this Order is to restrict entry into New South Wales of persons who have been in Victoria within the previous 14 days before entry.

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. The *Public Health Regulation 2012* also enables authorised officers to issue penalty notices for offences against clause 6 by individuals for an amount of \$4,000 and \$1,000 in other cases.

Editorial note

This is the order as amended by the *Public Health (COVID-19 Border Control) Amendment Order 2020*, the *Public Health (COVID-19 Border Control) Amendment (Border Community) Order 2020* and the *Public Health (COVID-19 Border Control) Amendment (Vulnerable Persons) Order 2020*.

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Public Health (COVID-19 Border Control) Order 2020

under the

Public Health Act 2010

Part 1 Preliminary

1 Name of Order

This Order is the *Public Health (COVID-19 Border Control) Order 2020*.

2 Commencement

This Order commences at the beginning of 8 July 2020.

Note. Section 7 of the Act provides for this Order to expire at the end of 90 days after it was made unless it is earlier revoked.

3 Definitions

(1) In this Order—

affected person means a person who has been in Victoria within the previous 14 days.

authorised to enter New South Wales—see clause 5.

border means the border between New South Wales and Victoria.

border zone means the area shown as the border zone on the Public Health (COVID-19 Border Control) Map approved by the Minister on the making of the *Public Health (COVID-19 Border Control) Amendment Order 2020*.

Note. A copy of the Public Health (COVID-19 Border Control) Map is available on www.nsw.gov.au.

border zone resident means a person who usually resides within the border zone.

COVID-19 environmental cleaning means environmental cleaning and disinfection in a workplace or other non-residential premises to prevent the spread of COVID-19.

critical services includes the following services—

- (a) the movement of freight on a commercial basis,
- (b) the movement of persons on a commercial basis,
- (c) the maintenance and repair of critical infrastructure,
- (d) medical, hospital, dental or veterinary care,
- (e) Commonwealth defence and security services,
- (f) mining, agriculture, construction, energy or manufacturing,
- (g) COVID-19 environmental cleaning on a commercial basis that is not available locally,

but does not include services provided by a seasonal worker.

day school means the following—

- (a) a government or non-government school, other than a boarding school,

- (b) a pre-school,
- (c) a child care centre.

day school visitor means—

- (a) a person ordinarily resident in Victoria who is—
 - (i) a student at a day school entering New South Wales for the purposes of receiving instruction, or
 - (ii) a parent or guardian accompanying a student referred to in subparagraph (i) if the student is under 18 years of age, or
 - (iii) a staff member of a day school entering New South Wales for the purposes of working at or providing services in relation to the school, or
 - (iv) another person engaged to work at or provide services in relation to a day school entering New South Wales for the purposes of working at or providing services to the school, and

Note. Another person engaged to work at or provide services in relation to a day school would include, for example—

- (a) a cleaner contracted to work at the school, and
- (b) a person engaged to drive a school bus.

- (b) a person ordinarily resident in New South Wales who is—
 - (i) a student at a day school in Victoria who, after entering Victoria for the purposes of receiving instruction, is returning to New South Wales, or
 - (ii) a parent or guardian accompanying a student referred to in subparagraph (i) if the student is under 18 years of age, or
 - (iii) a staff member of a day school in Victoria, who after entering Victoria for the purposes of working at the school, is returning to New South Wales, or
 - (iv) another person engaged to work at or provide services in relation to a day school in Victoria, who after entering Victoria for the purposes of working at the school, is returning to New South Wales.

Note. Another person engaged to work at or provide services in relation to a day school would include, for example—

- (a) a cleaner contracted to work at the school, and
- (b) a person engaged to drive a school bus.

enforcement officer means any of the following—

- (a) a police officer,
- (b) a member of the NSW Health Service who is in a class approved by the Chief Health Officer for the purposes of this Order,
- (c) a member of the Public Service who is in a class approved by the Chief Health Officer for the purposes of this Order.

entry permit means a permit issued by or on behalf of the Government of New South Wales for the purposes of this Order (whether issued in paper or electronic form).

essential care service means providing or receiving care or assistance to a vulnerable person, including—

- (a) personal care, and
- (b) mental health or domestic violence services, and
- (c) services to victims of crime.

New South Wales means the geographic area of New South Wales.

NSW Health Self-Isolation Guidelines has the same meaning as in the *Public Health (COVID-19 Self-Isolation) Order (No 2) 2020*.

NSW resident means a person whose usual place of residence is New South Wales.
overnight rest stop means a place where a person can rest or sleep before undertaking onward travel.

permitted purpose, in relation to an entry permit issued to a border zone resident, means for the purpose of doing any of the following—

- (a) work (but only if the resident cannot work from home),
- (b) attend a school or other educational institution (but only if the resident cannot learn from home),
- (c) obtain medical care or supplies or health services,
- (d) an essential care service.

relevant condition—see clause 5.

relevant COVID-19 Safety Plan means—

- (a) for a person moving freight on a commercial basis—a COVID-19 Safety Plan that addresses the matters required by the COVID-19 safety checklist for persons moving freight approved by the Chief Health Officer and published on the New South Wales Government website (www.nsw.gov.au), or
- (b) for child access or care arrangements—the COVID-19 Safety Plan for those arrangements approved by the Chief Health Officer and published on the New South Wales Government website (www.nsw.gov.au).

relevant education visitor means a person ordinarily resident of Victoria who is—

- (a) a student at a boarding school or university entering New South Wales for the purposes of receiving instruction, or
- (b) a parent or guardian accompanying a student referred to in paragraph (a) if the student is under 18 years of age, or
- (c) a staff member at a boarding school or university entering New South Wales for the purpose of working at the school.

the Act means the *Public Health Act 2010*.

Victoria means the geographical area of the State of Victoria.

Victorian resident means a person whose usual place of residence is Victoria.

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

- (1A) In this Order, 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
 - (ii) 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 or Territory concerned if the person self-isolates until the transit, or
 - (ii) dealing with an emergency.
- (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, also known 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 New South Wales, as well as other Australian jurisdictions,
- (d) recent cases of unexpected community transmission of COVID-19 in Victoria, with restrictions on the movement of people being put in place in certain hotspot areas,
- (e) the Victorian Government and New South Wales Government have agreed that the border should, subject to exceptions determined by the Government of New South Wales, be closed until community transmission of COVID-19 in Victoria is contained.

Part 2 Directions concerning border and entry

5 Direction of Minister not to enter New South Wales

- (1) The Minister directs that an affected person must not enter New South Wales unless the person is authorised to enter New South Wales.
- (2) For the purposes of this Order, an authorised person is *authorised to enter New South Wales* if—
 - (a) the person belongs to a class of persons specified in Column 1 of Schedule 1 (the *relevant class*), and
 - (b) the person holds a current entry permit (if required for that relevant class in Column 2 of Schedule 1), and
 - (c) the person complies with all of the following conditions (the *relevant conditions*)—
 - (i) the conditions (if any) specified in Column 3 of Schedule 1 as conditions for the relevant class,
 - (ii) if a permit is required for the relevant class—any other conditions specified by the permit that the Minister has determined in writing to be approved conditions for the particular permit or the relevant class.
- (3) The Minister also directs that an affected person who is authorised to enter New South Wales must comply with all applicable relevant conditions while in New South Wales.
- (4) A person accompanying an affected person who is authorised to enter New South Wales, is also authorised to enter New South Wales if—
 - (a) the affected person holds an entry permit to enter New South Wales, and
 - (b) the accompanying person is—
 - (i) required to provide care or support to the affected person, or
 - (ii) because the person is a dependent of the affected person, and
 - (c) the accompanying person's name is recorded on the affected person's entry permit, and
 - (d) the accompanying person complies with the relevant conditions that apply to the affected person.
- (5) Despite subclauses (1) and (4), the Minister directs that an affected person who is not a NSW resident and poses an unacceptable public health risk of transmission of COVID-19 must not enter New South Wales if requested not to do so by an enforcement officer.

6 Directions of Minister about providing information

- (1) The Minister directs that a person must, if required to do so by an enforcement officer, provide information (including photo identification) to allow a decision to be made about—
 - (a) whether the person is an affected person, and
 - (b) if the person is an affected person—whether the person is authorised to enter New South Wales.
- (2) An enforcement officer may require information under subclause (1)(a) only if the enforcement officer suspects on reasonable grounds that the person may be an affected person.
- (3) The Minister also directs that a person who provides information in response to requirement under this clause must ensure that the information is true and accurate.

- (4) A person provides sufficient information in response to a requirement under this clause about whether the person is authorised to enter New South Wales if the person produces—
 - (a) a current entry permit for inspection by the enforcement officer stating that the person is authorised to enter New South Wales, and
 - (b) if requested by the enforcement officer, photographic identification to verify the person is the holder of the permit.
- (5) The Minister directs that an affected person who enters New South Wales using an entry permit must, when travelling or undertaking activities within the State, carry a copy of the permit while it remains in force so that it can be produced to an enforcement officer on request.

7 Directions of Minister concerning affected persons required to self-isolate

- (1) This clause applies to an affected person who is required to self-isolate because of clause 3(1A)(b)(i) or a relevant condition of an entry permit held by the person.
- (2) The Minister directs that an affected person to whom this clause applies is to reside at the person's usual place of residence or other suitable place of accommodation until the period of 14 days have elapsed since the person entered New South Wales.
- (3) The Minister directs that, while residing at the usual place of residence or suitable place of accommodation, an affected person must do the following—
 - (a) not leave the residence or accommodation except—
 - (i) to obtain medical care or medical supplies, or
 - (ii) to comply with a legal obligation or comply with an order or a court or tribunal, or
 - (iii) in an emergency situation, or
 - (iv) to provide a critical service, or
 - (v) to leave New South Wales by the most practicable direct route,
 - (b) not allow any other person to enter the residence or accommodation unless—
 - (i) that other person usually lives at the place 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 purposes of delivering food or essential items,
 - (c) otherwise comply with the *NSW Health Self-Isolation Guidelines*.
- (4) The Minister directs that an affected person must, when not at the person's usual place of residence or other suitable place of accommodation, take all reasonable steps to minimise contact with other persons.

8 Directions of Minister concerning leaving New South Wales

The Minister directs that an affected person who is not a NSW resident and is not authorised to enter New South Wales must leave New South Wales if asked to do so by an enforcement officer.

Part 3 Miscellaneous

9 Relationship of Order with related Public Health Orders

- (1) To avoid doubt, an affected person who is authorised to enter New South Wales for the purposes of this Order must comply with any directions applicable to the person under a related Public Health Order (including in respect of isolation).
- (2) In this clause—
related Public Health Order means each of the following orders made under section 7 of the Act as in force from time to time—
 - (a) the *Public Health (COVID-19 Aged Care Facilities) Order (No 2) 2020*,
 - (b) the *Public Health (COVID-19 Air Transportation Quarantine) Order (No 2) 2020*,
 - (c) the *Public Health (COVID-19 Maritime Quarantine) Order (No 2) 2020*,
 - (d) the *Public Health (COVID-19 Self-Isolation) Order (No 2) 2020*,
 - (e) any order that remakes, replaces or consolidates (whether in whole or in part) any order or orders mentioned above.

10 Exemptions

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

Part 4 Repeal, savings and transitional provisions

Division 1 Repeal

11 Repeal of existing Order

- (1) The *Public Health (COVID-19 Interstate Hotspots) Order 2020* (the **repealed Order**) is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the repealed Order, had effect under that Order continues to have effect under this Order.
- (3) Without limiting subclause (2), any person who was required immediately before the repeal of the Order to reside at the person's place of residence or other suitable place for 14 days must continue to do so until the period ends.
- (4) A person referred to in subclause (3) may only leave the place at which the person is residing in the circumstances permitted by clause 7.

Division 2 Savings and transitional provisions for Public Health (COVID-19 Border Control) Amendment Order 2020

12 Definitions

In this Division—

amending Order means the *Public Health (COVID-19 Border Control) Amendment Order 2020*.

commencement means the commencement of the amending Order.

13 Entry permits—persons not in New South Wales

- (1) This clause applies if, immediately before the commencement—
 - (a) a person held an entry permit, but
 - (b) was not in New South Wales.
- (2) From the commencement—
 - (a) the entry permit ceases to have effect, and
 - (b) the person is not authorised to enter New South Wales under the entry permit.
- (3) This clause does not apply to an entry permit authorising a person to enter New South Wales for compassionate grounds under item 13 of Schedule 1, as in force immediately before the commencement.

14 Entry permits—compassionate grounds

- (1) This clause applies, if immediately before the commencement—
 - (a) a person held an entry permit authorising the person to enter New South Wales for compassionate grounds under item 13 of Schedule 1, and
 - (b) was not in New South Wales.
- (2) Unless sooner revoked, the entry permit—
 - (a) continues in force for the balance of the period (if any) for which it was originally issued, and
 - (b) while it continues in force, remains subject to the condition specified for item 13 of Schedule 1 immediately before the commencement.
- (3) To remove any doubt, the person—

- (a) may enter New South Wales in accordance with the permit, and
- (b) must continue to comply with the conditions specified by the entry permit including, for example, any obligation to self-isolate.

15 Entry permits—persons in New South Wales

- (1) This clause applies if, immediately before the commencement—
 - (a) a person held an entry permit, and
 - (b) was in New South Wales in accordance with the permit.
- (2) Subject to subclause (4), the entry permit—
 - (a) continues in force for the balance of the period (if any) for which it was originally issued, unless sooner revoked, and
 - (b) while it continues in force, remains subject to the same conditions that applied immediately before the commencement.
- (3) To remove any doubt, the person—
 - (a) may remain in New South Wales in accordance with the permit, and
 - (b) must continue to comply with the conditions specified by the entry permit including, for example, any obligation to self-isolate.
- (4) However, if the person leaves New South Wales—
 - (a) the permit ceases to have effect, and
 - (b) the person is not authorised to enter New South Wales under the entry permit.

16 Exceptions under clause 9

Clause 9, as in force immediately before its repeal by the amending Order, continues to apply to an affected person if—

- (a) the person entered New South Wales before the repeal of the clause for the sole purpose mentioned in the clause, and
- (b) the person had not yet left New South Wales when the clause was repealed.

17 Pre-existing activities

To avoid doubt, an amendment of Schedule 1 by the amending Order requiring an entry permit for a class of entry into New South Wales for an activity does not prevent an affected person from undertaking the activity if—

- (a) the activity was previously specified by Schedule 1 to be an activity for which a permit was not required, and
- (b) the person entered New South Wales before the amendment commenced to undertake the activity, and
- (c) the person has remained in New South Wales since entry, but has not yet completed that activity.

18 Persons living in border communities

- (1) This clause applies to a border zone resident if the resident—
 - (a) had not, within the 14 days before the commencement, travelled to a place in Victoria outside a Border community, and
 - (b) has not, since the commencement, travelled to a place in Victoria outside the border zone.
- (2) The border zone resident may—

- (a) as a member of a class of persons specified in column 1 of item 7 of Schedule 1, apply for an entry permit to enter New South Wales, and
- (b) if issued with the permit—
 - (i) for a Victorian resident—enter New South Wales as if the permit were not subject to the condition specified in paragraph (c) in column 3 of item 7 of Schedule 1 in relation to a border resident who is a Victorian resident, or
 - (ii) for a New South Wales resident—re-enter New South Wales, as if the permit were not subject to the condition specified in paragraph (a) in column 3 of item 7 of Schedule 1 in relation to a border resident who is a New South Wales resident, without being required to self-isolate.
- (3) In this clause—

Border community means a Border community within the meaning of clause 3(1) as in force before the commencement.

Note. Before the commencement, Border community was defined in clause 3(1) to mean “a community that a reasonable person would consider to be a community located at or near the border”.
- (4) This clause expires on 4 August 2020.

Schedule 1 Authority to enter New South Wales

Note. Clause 5(2) provides that a person is authorised to enter New South Wales if the person belongs to a class of persons specified by Column 1 of this Schedule. The class of persons must hold a permit if Column 2 of this Schedule requires a permit. The person authorised must comply with—

- (a) the conditions (if any) specified in Column 3 of this Schedule for the class of persons, and
- (b) if a permit is required for the class of persons—any other conditions specified by the permit that the Minister has determined in writing to be approved conditions for the particular permit or the class.

If a person is authorised to enter New South Wales for a particular purpose, the person may remain in New South only to undertake that purpose.

	Column 1	Column 2	Column 3
	Relevant class	Entry permit	Relevant conditions
1	NSW resident (other than a NSW resident mentioned in item 1A or 1B)	Required	The NSW resident must self-isolate
1A	NSW resident who has been quarantined in Victoria for the previous 14 days under the <i>Public Health and Wellbeing Act 2008</i> of Victoria	Required	The NSW resident— (a) must have documentary evidence that the resident has completed the Victorian quarantine period, and (b) must travel to New South Wales by the most practicable direct route from the place of quarantine
1B	NSW resident who was transiting at a Victorian airport from another State or a Territory and who did not leave the airport while in Victoria	Required	
2	Person providing a critical service	Required	The person must— (a) for a person moving freight on a commercial basis—comply with the relevant COVID-19 Safety Plan at all times, or (b) otherwise—self-isolate except when providing the critical service
3	Person providing an emergency or law enforcement service	Not required	Nil
4	Member of Parliament or staff member	Required	The member must self-isolate except when undertaking official duties or leaving New South Wales by the most practicable direct route
5	Consular official	Required	The consular official must self-isolate except when undertaking official duties or leaving New South Wales by the most practicable direct route
6	Person entering to avoid injury, harm or immediate emergency situation	Not required	Nil

Column 1	Column 2	Column 3
Relevant class	Entry permit	Relevant conditions
7	Border zone resident	Required
		<p>A border zone resident who is a Victorian resident—</p> <ul style="list-style-type: none"> (a) is authorised to enter and remain in New South Wales only for a permitted purpose, and (b) must not travel to any part of New South Wales that is outside of the border zone, and (c) must not enter New South Wales if the resident had travelled in Victoria outside the border zone within the previous 14 days <p>A border zone resident who is a NSW resident must self-isolate if—</p> <ul style="list-style-type: none"> (a) the resident travels within Victoria outside the border zone before re-entering New South Wales using the permit, or (b) the resident entered Victoria other than for a permitted purpose
8	Relevant education visitor	Required
		<p>The relevant education visitor must—</p> <ul style="list-style-type: none"> (a) self-isolate, and (b) obtain a negative COVID-19 swab result between the 10th and 14th day of self-isolation, and (c) start an additional period of self-isolation if, for any reason (including weekend visits), the visitor returns to Victoria

Column 1	Column 2	Column 3
Relevant class	Entry permit	Relevant conditions
8A Day school visitor	Required	<p>The day school visitor must travel by the most practicable direct route between their place of residence and the school</p> <p>The day school visitor must comply with any directions about attendance at school issued by the Secretary of the NSW Department of Education and Training</p> <p>If the day school visitor is ordinarily resident in Victoria, the visitor must not enter New South Wales if the visitor has, within the previous 14 days, been in an area that is a restricted area in accordance with an Area Direction made under the <i>Public Health and Wellbeing Act 2008</i> of Victoria</p> <p>If the day school visitor is ordinarily resident in New South Wales, the visitor must self-isolate if the visitor returns to New South Wales and has, within the previous 14 days, been in an area that is a restricted area in accordance with an Area Direction made under the <i>Public Health and Wellbeing Act 2008</i> of Victoria</p>
9 Person entering for child access or care arrangements	Required	<p>The person must comply with the relevant COVID-19 Safety Plan at all times or self-isolate</p>
10 Person entering for medical or hospital services except in emergency situation	Required	<p>The person must travel by the most practicable direct route to the place where the service is provided</p> <p>The person must not enter New South Wales if the person has, within the previous 14 days, been an area that is a restricted area in accordance with an Area Direction made under the <i>Public Health and Wellbeing Act 2008</i> of Victoria</p> <p>The person is authorised to enter New South Wales only if the service is not available in Victoria or cannot be accessed remotely</p>
10A Person requiring medical, hospital, dental or veterinary care in an emergency situation	Not required	<p>The person must travel by the most practicable direct route—</p> <ol style="list-style-type: none"> (a) to the place where the service is provided, and (b) from the place where the service is provided to the person’s place of residence.

Column 1	Column 2	Column 3
Relevant class	Entry permit	Relevant conditions
11 Person who is transiting through New South Wales by road, rail or air	Required	The person must— (a) enter New South Wales only if the person has lawful authority to enter the place outside New South Wales to which the person is travelling, and (b) transit through New South Wales by the most practicable direct route
11A A person who has transited in Victoria after being a passenger on the vessel known as the Spirit of Tasmania	Required	The person must— (a) if the person enters New South Wales by air—travel from the vessel by the most practicable direct route to an airport in Victoria without leaving the airport except to board a flight to New South Wales, or (b) if the person enters New South Wales by road or rail—travel by the most practicable direct route from the vessel to New South Wales
11B A person who has transited in Victoria from South Australia by road or rail	Required	The person must travel by the most practicable direct route to New South Wales
13 Person entering for compassionate grounds	Required	
14 Person entering to attend court or meet other legal obligations	Required	The person must self-isolate except to attend court or meet other legal obligations