



New South Wales

# Public Health (COVID-19 Restrictions on Gathering and Movement) Order (No 5) 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 25 September 2020 (original order).

As amended on 15 October 2020, 22 October 2020 and 20 November 2020.

Minister for Health and Medical Research

## Explanatory note

The object of this Order is to revoke and remake, with some changes, the *Public Health (COVID-19 Restrictions on Gathering and Movement) Order (No 4) 2020*. The changes relate to the following—

- (a) the seating of persons at hospitality venues,
- (b) the maximum number of persons that may attend entertainment facilities and corporate events,
- (c) directions that are specifically applicable in relation to Lord Howe Island,
- (d) approved COVID-19 safety checklists.

## Editorial note

This is the order as amended by the *Public Health (COVID-19 Restrictions on Gathering and Movement) Order (No 5) Amendment Order 2020*, *Public Health (COVID-19 Restrictions on Gathering and Movement) Order (No 5) Amendment Order (No 2) 2020* and the *Public Health (COVID-19 Restrictions on Gathering and Movement) Order (No 5) Amendment Order (No 3) 2020*.

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## Public Health (COVID-19 Restrictions on Gathering and Movement) Order (No 5) 2020

under the

Public Health Act 2010

### Part 1 Preliminary

#### 1 Name of Order

This Order is the *Public Health (COVID-19 Restrictions on Gathering and Movement) Order (No 5) 2020*.

#### 2 Commencement

- (1) This Order commences at the beginning of 28 September 2020, except as provided by subclause (2).
- (2) Part 2, Division 7 commences at the beginning of 2 October 2020.

#### 3 Definitions

- (1) In this Order—

**approved COVID-19 safety checklist** means a COVID-19 safety checklist, approved by the Chief Health Officer and published on the New South Wales Government website.

**controlled outdoor public gathering**—see clause 22A.

**corporate event** means an event or hospitality or social activity organised, held or funded by a business or other organisation for staff, clients or stakeholders, but does not include a gathering referred to in Schedule 2.

**COVID-19 Safety Hygiene Marshal**, for a hospitality venue or gymnasium, means a person who—

- (a) is responsible for ensuring the COVID-19 Safety Plan for the premises is being adhered to, and
- (b) is dressed in distinctive clothing.

**event** includes a function.

**gymnasium** means a gymnasium that is a recreation facility (indoor) and that is open to members of the public, but does not include a dance, yoga, pilates, gymnastics or martial arts studio.

**hospitality venue** means the following—

- (a) a casino,
- (b) food and drink premises,
- (c) micro-breweries, small distilleries holding a drink on-premises authorisation under the *Liquor Act 2007* and cellar door premises,
- (d) pubs,
- (e) registered clubs,
- (f) small bars.

**household** means persons living together in the same place of residence.

**indoor area** includes an area in a building or other structure, whether or not temporary, which has a roof, ceiling or other top covering, but does not include an area with at least 2 sides open to the weather.

**occupier of premises** includes the operator of a vehicle or vessel.

**outdoor area** means an area that is not an indoor area.

**parent** in relation to a child, includes a person who has parental responsibility for, or care of, the child.

**party bus** means a vehicle being used on a commercial basis for the purposes of a party, whether or not the party takes place during transportation between locations.

**place of residence** includes the premises where a person lives and a garden, yard, passage, stairs, garage, outhouse or other area or thing attached to, or used in connection with, the premises.

**public gathering** means a meeting or assembly of persons for a common purpose, including an organised or planned event, in a public place (whether ticketed or not).

**public place** has the same meaning as in the *Summary Offences Act 1988*.

**separate area**, for a hospitality venue, means an area within the venue—

- (a) that is separate from other areas on the premises, and
- (b) has been designated as a separate area by the occupier of the premises, and
- (c) if food and drink service are being provided in the area—that has staff that are providing food and drink service only in that area, and
- (d) that does not allow persons gathering in different areas to mingle.

**separate area**, for a place of public worship, means a building—

- (a) that is separate from other buildings within the premises, and
- (b) has been designated as a separate building by the occupier of the premises, and
- (c) that is staffed by persons officiating or volunteers or other staff who provide services in that building only, and
- (d) that does not allow persons gathering in different buildings to mingle.

**short-term rental** means premises to which a short-term rental accommodation arrangement, as defined in section 54A of the *Fair Trading Act 1987*, applies.

**significant event** means—

- (a) a corporate event, or
- (b) a funeral or memorial service, or
- (c) a wedding service, or
- (d) a gathering following a funeral or memorial service or wedding service.

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

**work** includes work done as a volunteer or for a charitable organisation.

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

- (2) A reference to a type of premises in this Order has the same meaning as it has in the Standard Instrument set out in the *Standard Instrument (Local Environmental Plans) Order 2006*.

**Note.** The Standard Instrument includes the following definitions—

**amusement centre** means a building or place (not being part of a pub or registered club) used principally for playing—

- (a) billiards, pool or other like games, or

- (b) electronic or mechanical amusement devices, such as pinball machines, computer or video games and the like.

**business premises** means a building or place at or on which—

- (a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or

- (b) a service is provided directly to members of the public on a regular basis,

and includes a funeral home and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, betting agencies and the like, but does not include an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital.

**camping ground** means an area of land that has access to communal amenities and on which campervans or tents, annexes or other similar portable and lightweight temporary shelters are, or are to be, installed, erected or placed for short term use, but does not include a caravan park.

**caravan park** means land (including a camping ground) on which caravans (or caravans and other moveable dwellings) are, or are to be, installed or placed.

**cellar door premises** means a building or place that is used to sell wine by retail and that is situated on land on which there is a commercial vineyard, and where most of the wine offered for sale is produced in a winery situated on that land or is produced predominantly from grapes grown in the surrounding area.

**early education and care facility** means a building or place used for the education and care of children, and includes a centre-based child care facility, home-based child care and school-based child care.

**entertainment facility** means a theatre, cinema, music hall, concert hall, dance hall and the like, but does not include a pub or registered club.

**food and drink premises** means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following—

- (a) a restaurant or cafe,  
(b) take away food and drink premises,  
(c) a pub,  
(d) a small bar.

**function centre** means a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility.

**information and education facility** means a building or place used for providing information or education to visitors, and the exhibition or display of items, and includes an art gallery, museum, library, visitor information centre and the like.

**market** means an open-air area, or an existing building, that is used for the purpose of selling, exposing or offering goods, merchandise or materials for sale by independent stall holders, and includes temporary structures and existing permanent structures used for that purpose on an intermittent or occasional basis.

**place of public worship** means a building or place used for the purpose of religious worship by a congregation or religious group, whether or not the building or place is also used for counselling, social events, instruction or religious training.

**pub** means licensed premises under the *Liquor Act 2007* the principal purpose of which is the retail sale of liquor for consumption on the premises, whether or not the premises include hotel or motel accommodation and whether or not food is sold or entertainment is provided on the premises.

**recreation facility (indoor)** means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.

**recreation facility (major)** means a building or place used for large-scale sporting or recreation activities that are attended by large numbers of people whether regularly or periodically, and includes theme parks, sports stadiums, showgrounds, racecourses and motor racing tracks.

**registered club** means a club that holds a club licence under the *Liquor Act 2007*.

**sex services premises** means a brothel, but does not include home occupation (sex services).

**tourist and visitor accommodation** means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes any of the following—

- (a) backpackers' accommodation,
  - (b) bed and breakfast accommodation,
  - (c) farm stay accommodation,
  - (d) hotel or motel accommodation,
  - (e) serviced apartments,
- but does not include—

- (f) camping grounds, or
- (g) caravan parks, or
- (h) eco-tourist facilities.

#### **4 Interpretation generally**

- (1) In calculating both the space available for each person on any premises and the number of persons on the premises, the following persons are not to be included in any calculations—
  - (a) any person engaged in work on the premises for the occupier of the premises,
  - (b) if the premises are food and drink premises, any person ordering or collecting food or drink to consume off the premises.
- (2) In calculating the space available for each person on any premises the following areas are to be included in the calculations—
  - (a) if the size of the premises is not more than 200 square metres of floor space, the entire premises,
  - (b) if the size of the premises is more than 200 square metres of floor space, only those areas that are open to the public.
- (3) Notes included in this Order do not form part of this Order.

#### **5 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 international 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, including by means of community transmission.

#### **6 Direction of Minister about place of work**

The Minister directs that an employer must allow an employee to work at the employee's place of residence if it is reasonably practicable to do so.

## Part 2 Restrictions on gatherings and use of premises

### Division 1 Non-residential premises

#### 7 Direction of Minister requiring COVID-19 Safety Plans

- (1) The Minister directs that occupiers of premises listed in column 2 of Schedule 1 must—
  - (a) develop and comply with a COVID-19 Safety Plan that addresses the matters required by the approved COVID-19 safety checklist set out opposite the premises in column 3 of Schedule 1 approved on the date specified in column 4 of Schedule 1, and
  - (b) keep a copy of the COVID-19 Safety Plan on the premises and make it available for inspection by an authorised officer or police officer as requested.
- (2) The Minister directs that for premises that are a hospitality venue or place of public worship that has more than 1 separate area, the occupier of the premises must develop, comply with and keep a COVID-19 Safety Plan as required by subclause (1) for each of the separate areas on the premises.
- (3) The Minister directs that for any of the following premises, the occupier of the premises must register with the NSW Government as a COVID-19 Safe business—
  - (a) crematoria,
  - (b) hospitality venues,
  - (c) funeral homes,
  - (d) places of public worship,
  - (e) gymnasiums.

**Note.** For how to register as a COVID-19 Safe business, see the NSW Government website at [www.nsw.gov.au](http://www.nsw.gov.au)

#### 8 Direction of Minister about the number of persons allowed on premises

- (1) The Minister directs that an occupier of premises must not allow persons on the premises if the size of the premises is insufficient to ensure there is at least 4 square metres of space for each person on the premises.

**Note.** The *Public Health Act 2010* defines the occupier of premises or a part of premises to mean the owner of the premises or part of premises or if any other person is entitled to occupy the premises or part to the exclusion of the owner, that person.
- (2) This clause does not apply to—
  - (a) a place of residence, or
  - (b) a hospitality venue, or
  - (c) a recreation facility (major), or
  - (d) an entertainment facility, or
  - (e) a vessel used for commercial tours for scuba diving, snorkelling or whale, dolphin or marine animal watching, but only if there are 50 or fewer persons on the vessel, or
  - (f) caravan parks and camping grounds, or
  - (g) holiday homes and short-term rentals, or
  - (h) a gathering referred to in Schedule 2, or
  - (i) a gathering at a place of public worship, or
  - (j) the enclosed area of a controlled outdoor public gathering, or



- (k) the premises on which a religious service in an outdoor area takes place.

## **9 Directions of Minister about hospitality venues**

- (1) The Minister directs that the occupier of a hospitality venue must ensure that—
- (a) for a hospitality venue consisting of 2 or more separate areas, the maximum number of persons in each of the areas is the lesser of—
    - (i) the permissible number of persons for the separate area calculated as provided by subclause (2), or
    - (ii) 300 persons, and
  - (b) for a hospitality venue not consisting of 2 or more separate areas, the maximum number of persons on the premises is the lesser of—
    - (i) the permissible number of persons for the premises calculated as provided by subclause (3), or
    - (ii) 300 persons.
- (2) For subclause (1)(a), the permissible number of persons for a separate area is the number of persons equivalent to—
- (a) for any part of the area that is an outdoor area—1 person per 2 square metres of space in the outdoor area, and
  - (b) for any part of the area that is an indoor area—1 person per 4 square metres of space in the indoor area.
- (3) For subclause (1)(b), the permissible number of persons for the premises is the number of persons equivalent to—
- (a) for any part of the premises that is an outdoor area—1 person per 2 square metres of space in the outdoor area, and
  - (b) for any part of the premises that is an indoor area—1 person per 4 square metres of space in the indoor area.
- (4) (Repealed)
- (5) The Minister directs that the occupier of a hospitality venue must ensure that—
- (a) for a significant event on the premises—a booking or reservation for the event does not consist of more persons than the maximum number permitted under clause 17 to attend the event, and
  - (b) otherwise—
    - (i) an individual booking or reservation for a group entering or on the premises does not consist of more than 30 persons, and
    - (ii) no individual group entering or on the premises consists of more than 30 persons, and
  - (c) as far as practicable, persons on the premises remain seated, and
  - (d) there is a COVID-19 Safety Hygiene Marshal—
    - (i) for premises that do not have separate areas—on the premises if there are more than 250 persons on the premises, or
    - (ii) for premises that have separate areas—in a separate area on the premises if there are more than 250 persons in the area.
- (6) Subclause (5)(c) does not apply in relation to persons who—
- (a) are playing a game, such as pool or darts, that requires them to stand, and
  - (b) are not drinking alcohol.
- (7) (Repealed)

#### **10 Direction of Minister about gymnasiums**

The Minister directs that the occupier of a gymnasium must ensure that there is a COVID-19 Safety Hygiene Marshal on the premises if—

- (a) the gymnasium is open for use, and
- (b) more than 20 persons are being allowed to use the gymnasium at the same time.

#### **11 Directions of Minister about places of public worship**

- (1) The Minister directs that the occupier of a place of public worship must ensure—
  - (a) for a place of public worship with more than 1 separate area, the maximum number of persons in each of the areas is the lesser of—
    - (i) the number of persons that is equivalent to 1 person per 4 square metres of space in the area, or
    - (ii) 300 persons, and
  - (b) for any other place of public worship, the maximum number of persons on the premises is the lesser of—
    - (i) the number of persons that is equivalent to 1 person per 4 square metres of space on the premises, or
    - (ii) 300 persons.
- (2) The Minister directs that the occupier of a place of public worship comprised of more than 1 separate area must ensure that a religious service, activity or event conducted in 1 separate area does not commence or end at the same time as another religious service, activity or event in another separate area in the place.

**Note.** Under clause 12, the occupier of premises on which a significant event is held is directed to ensure that the number of persons on the premises for that event is not more than the number of persons that, under clause 17, are permitted to participate in a significant event of that type.

#### **11A Direction of Minister concerning maximum numbers at outdoor religious services and outdoor music rehearsals and performances at places of public worship**

- (1) This clause applies to a place of public worship at which a religious service is held in an outdoor area or an outdoor music rehearsal or performance is held and has effect despite clause 11.
- (2) The Minister directs that the occupier of a place of public worship must ensure that the number of persons at the place is not more than—
  - (a) for persons in the indoor areas of the place—the number calculated under clause 11(1), and
  - (b) for persons in the outdoor area of the place—the lesser of the following—
    - (i) for a religious service or outdoor music rehearsal or performance where each person, other than a person engaged in work, has been assigned to a specific seat—1 person per 2 square metres of space in the outdoor area,
    - (ii) for other religious services and outdoor music rehearsals and performances—1 person per 4 square metres of space in the outdoor area,
    - (iii) 500 participants.
- (3) The Minister directs that the occupier of a place of public worship must ensure that an outdoor religious service or outdoor music rehearsal or performance at the place does not commence or end at the same time as another service, rehearsal, performance, activity or event at the place.

- (4) In this clause, *outdoor music rehearsal or performance* has the same meaning as in Division 4A.

**12 Direction of Minister about premises on which significant event or religious service held**

The Minister directs that the occupier of premises on which a significant event or religious service is held must ensure that the number of persons on the premises for that event or service is not more than the number of persons that, under clause 17, are permitted to participate in a significant event or religious service of that type.

**13 Directions of Minister about recreation facilities (major)**

- (1) The Minister directs that the occupier of a recreation facility (major) must not allow persons, other than persons engaged in work, to be on the premises unless—
- (a) admission to the premises is by way of a ticket and each person has been assigned to a seating area, and
  - (b) the total number of persons is the lesser of 25% of the capacity of the premises or 10,000 persons.
- (2) Subclause (1) does not apply in circumstances where—
- (a) admission to the premises is limited to a maximum of 500 persons, and
  - (b) the size of the premises is sufficient to ensure there is at least 4 square metres of space for each person on the premises.
- (3) The Minister directs that the occupier of premises of a type listed in Schedule 1 (for example, food and drink premises) that are within a recreation facility (major) must not allow persons to be on the premises unless the size of the premises is sufficient to ensure there is at least 4 square metres of space for each person on the premises.

**14 Direction of Minister about entertainment facilities**

- (1) The Minister directs that the occupier of an entertainment facility must ensure that the maximum number of persons on the premises is—
- (a) the number of persons that is equivalent to 1 person per 4 square metres of space on the premises, or
  - (b) the lesser of—
    - (i) 50% of the capacity of the premises, or
    - (ii) 1,000 persons.
- (2) Subclause (1)(b) applies only if admission to the premises is by way of a ticket and each person has been assigned to a seating area.

**Division 2 Residential premises**

**15 Directions of Minister about persons allowed on residential premises**

- (1) The Minister directs that each adult member of a household must not allow more than 20 visitors to be at the place of residence of the household at any one time.
- (2) The Minister directs that a visitor to a place of residence must not participate in a gathering at the residence consisting of more than 20 visitors.
- (3) This clause does not apply to a wedding, a funeral or a memorial service or a gathering immediately after a wedding, a funeral or a memorial service.

**16 Visitors**

For the purposes of this Division, a person is not a visitor to a place of residence if—

- (a) the person is a member of the household of the place of residence, or
- (b) the person is at the place of residence for any of the following purposes—
  - (i) to engage in work,
  - (ii) for childcare,
  - (iii) to fulfil carers' responsibilities,
  - (iv) to provide care or assistance, including personal care, to a vulnerable person,
  - (v) to give effect to new or existing arrangements for spending time with, and providing contact between, parents and children under the age of 18 or between siblings,
  - (vi) to assist a person moving to or from the place of residence,
  - (vii) to avoid an injury or illness or to escape a risk of harm,
  - (viii) because of an emergency or for compassionate reasons,
  - (ix) to view or inspect real property for sale or lease or participate in an auction of real property.

### **Division 3 Corporate events, funerals, memorial and religious services and weddings**

#### **17 Restrictions on certain activities**

- (1) The Minister directs that a person must not organise, conduct or participate in a significant event or religious service mentioned in subclause (2)–(5) if the number of persons to attend or attending the service or event exceeds the maximum set out in the relevant subclause.
- (2) For a corporate event, the maximum number of people is the lesser of—
  - (a) the number of persons that is equivalent to 1 person per 4 square metres of space in the premises, or
  - (b) 300 persons.
- (3) For a funeral or memorial service, or a gathering following a funeral or memorial service, the maximum number of people is the lesser of—
  - (a) the number of persons that is equivalent to 1 person per 4 square metres of space in the premises, or
  - (b) 100 persons.
- (4) For a religious service in an indoor area, other than a service or gathering mentioned in subclause (3) or (5), the maximum number of persons is the lesser of—
  - (a) the number of persons that is equivalent to 1 person per 4 square metres of space in the area, or
  - (b) 300 persons.
- (4A) For a religious service in an outdoor area, other than a service or gathering mentioned in subclause (3) or (5), the maximum number of persons is the lesser of the following—
  - (a) the number of persons that is equivalent to—
    - (i) for a service at which all persons, other than persons engaged in work, are assigned to specific seats—1 person per 2 square metres of space in the area, or
    - (ii) for other services—1 person per 4 square metres of space in the area,
  - (b) 500 persons.

- (5) For a wedding service, or a gathering following a wedding service, the maximum number of persons is the lesser of—
  - (a) the number of persons that is equivalent to 1 person per 4 square metres of space in the premises, or
  - (b) 150 persons.
- (5A) If a significant event mentioned in subclauses (2)–(5) is held in a hospitality venue, a reference in each of the subclauses to 1 person per 4 square metres of space in the premises is to be read as—
  - (a) for a hospitality venue consisting of 2 or more separate areas—the permissible number of persons for each separate area calculated as provided by clause 9(2), and
  - (b) for a hospitality venue not consisting of 2 or more separate areas—the permissible number of persons for the premises calculated as provided by clause 9(3).
- (6) This clause does not prevent a person from making or accepting a booking for a significant event exceeding the maximum amount of persons specified by this clause if the event complies with this clause as in force when the event is held.
- (7) Persons are to be excluded in calculating the maximum number of persons specified by this clause for a significant event or religious service if clause 4(1) excludes them in calculating the space available for each person on the premises.

#### 18 Direction of Minister requiring COVID-19 Safety Plans

- (1) The Minister directs that the responsible person for a significant event must—
  - (a) have and comply with a COVID-19 Safety Plan that addresses the matters required by the approved COVID-19 safety checklist set out opposite the type of event in column 3 of Schedule 1 approved on the date specified in column 4 of Schedule 1, and  
**Note.** If a person is a responsible person for more than 1 significant event the person may not need to develop a specific COVID-19 Safety Plan for each event. For example, if wedding services are regularly held in an indoor space on premises, the occupier of the premises may have one COVID-19 Safety Plan that applies to all wedding services held on the premises.
  - (b) keep a copy of the COVID-19 Safety Plan on the premises while the significant event is being held and make it available for inspection by an authorised officer or a police officer as requested.
- (2) The Minister directs that for a significant event, other than an event held in a public park, a reserve or a public garden, the responsible person for the event must register with the NSW Government as a COVID-19 Safe business before the event is held.  
**Note.** For how to register as a COVID-19 Safe business, see the NSW Government website at [www.nsw.gov.au](http://www.nsw.gov.au)
- (3) In this clause—  
**responsible person** means—
  - (a) for a significant event held in a public park, a reserve or a public garden—the person organising the event or conducting the service, and
  - (b) for another significant event—the occupier of the premises.

### Division 4 Community sporting activities

#### 19 Definitions

In this Division—

**community sporting activity** includes a training session for a community sporting activity.

**organiser** means—

- (a) for an activity conducted by or on behalf of an entity that is registered under the *Associations Incorporation Act 2009*, the public officer of the entity, or
- (b) for an activity conducted by or on behalf of an entity other than an entity referred to in paragraph (a), the chief executive officer of the entity, however described, or
- (c) in all other cases, the person who made the arrangements for the activity.

**participant** includes—

- (a) a person engaged in the sporting activity, and
- (b) an official involved in the conduct or organisation of the sporting activity, and
- (c) a spectator of the sporting activity.

## **20 Direction of Minister requiring COVID-19 Safety Plans**

The Minister directs that the organiser of a community sporting activity that involves a gathering of more than 30 participants must—

- (a) have and comply with a COVID-19 Safety Plan that addresses the matters required by the approved COVID-19 safety checklist set out opposite the type of event in column 3 of Schedule 1 approved on the date specified in column 4 of Schedule 1, and
- (b) keep a copy of the COVID-19 Safety Plan and make it available for inspection by an authorised officer or a police officer as requested.

## **21 Direction of Minister concerning maximum number of participants**

The Minister directs that the organiser of a community sporting activity must ensure that a gathering for the activity involves no more than 500 participants.

# **Division 4A Outdoor music rehearsals or performances**

## **21A Definitions**

In this Division—

**organiser** of an outdoor music rehearsal or performance means the person principally responsible for organising the rehearsal or performance.

**outdoor music rehearsal or performance** means a rehearsal or performance of music by one or more persons that is conducted in an outdoor public place.

**participant**, in relation to an outdoor music rehearsal or performance, includes—

- (a) a person engaged in the rehearsal or performance, and
- (b) a spectator of the rehearsal or performance.

## **21B Direction of Minister requiring COVID-19 Safety Plan**

The Minister directs that the organiser of an outdoor music rehearsal or performance that involves more than 30 participants must—

- (a) have and comply with a COVID-19 Safety Plan that addresses the matters required by the approved COVID-19 safety checklist set out opposite the type of event in column 3 of Schedule 1 approved on the date specified in column 4 of Schedule 1, and
- (b) keep a copy of the COVID-19 Safety Plan and make it available for inspection by an authorised officer or a police officer as requested.

**21C Direction of Minister concerning maximum number of participants**

- (1) The Minister directs that the organiser of an outdoor music rehearsal or performance must ensure that a gathering for the rehearsal or performance involves no more than 500 participants.
- (2) This clause does not apply to an outdoor music rehearsal or performance at the following—
  - (a) a recreation facility (major),
  - (b) a zoological park or reptile park,
  - (c) an entertainment facility.

**Note.** The other provisions of this Order apply regarding maximum number of participants at outdoor music rehearsals and performances at the premises.

**21D Outdoor music rehearsals or performances that are controlled outdoor public gatherings**

This Division does not apply to a controlled outdoor public gathering.

**Division 5 Outdoor public gatherings**

**22 Direction of Minister concerning outdoor public gatherings**

- (1) The Minister directs that a person must not participate in an outdoor public gathering of more than 30 persons.
- (2) This clause does not apply to a person who is—
  - (a) engaged in work, or
  - (b) providing care or assistance to vulnerable persons.
- (3) This clause does not apply to the following—
  - (a) a gathering on premises for which a person is required by clause 7 of this Order to develop and keep a COVID-19 Safety Plan,
  - (b) a community sporting activity for which a person is required by clause 20 of this Order to develop and keep a COVID-19 Safety Plan,
  - (b1) an outdoor music rehearsal or performance for which a person is required by clause 21B of this Order to develop and keep a COVID-19 Safety Plan,
  - (c) a gathering listed in Schedule 2 of this Order,
  - (d) a gathering of persons who are all from the same household,
  - (d1) (Repealed)
  - (e) a significant event or religious service,
  - (f) a gathering to move to a new place of residence or a business moving to new premises,
  - (g) a gathering to provide emergency assistance to a person or persons,
  - (h) a gathering necessary to allow a person to fulfil a legal obligation,
  - (i) a gathering of persons on real property to enable persons to view or inspect the real property for the purposes of the sale or lease of that property,
  - (j) a gathering of persons at a display home or other display premises to enable persons to view or inspect the display home or display premises for the purpose of the sale or lease of real property,
  - (k) a controlled outdoor public gathering.
- (4) This clause does not apply to an outdoor public gathering if—

- (a) the gathering is for the purpose of a protest or demonstration about a governmental or political matter, and
- (b) the gathering consists of no more than 500 persons, and
- (c) the person who is principally responsible for organising the gathering—
  - (i) has and complies with a COVID-19 Safety Plan that addresses the matters required by the approved COVID-19 safety checklist set out opposite the type of event in column 3 of Schedule 1 approved on the date specified in column 4 of Schedule 1, and
  - (ii) keeps a copy of the COVID-19 Safety Plan while the gathering occurs at the place the gathering is held or begins and makes it available for inspection by an authorised officer or a police officer as requested.

## **22A Directions of Minister concerning controlled outdoor public gatherings**

- (1) In this clause—
  - controlled outdoor public gathering* means an outdoor public gathering in an area (the *enclosed area*)—
    - (a) that is enclosed or bounded by fencing or another form of barrier, and
    - (b) access to which is controlled by way of a ticket.
  - organiser* of a controlled outdoor public gathering means the person principally responsible for organising the gathering.
- (2) The Minister directs that the organiser of a controlled outdoor public gathering must—
  - (a) have and comply with a COVID-19 Safety Plan that addresses the matters required by the approved COVID-19 safety checklist set out opposite the type of event in Column 3 of Schedule 1 approved on the date specified in Column 4 of Schedule 1, and
  - (b) keep a copy of the COVID-19 Safety Plan and make it available for inspection by an authorised officer or a police officer as requested.
- (3) The Minister directs that the organiser of a controlled outdoor public gathering must ensure that all persons participating in the gathering, other than persons engaged in work, are assigned to specific seats or to a seating area.
- (4) The Minister directs that the organiser of a controlled outdoor public gathering must ensure that the maximum number of persons participating in the gathering is the lesser of the following—
  - (a) the number of persons that is equivalent to—
    - (i) for a gathering at which all persons, other than persons engaged in work, are assigned to specific seats—1 person per 2 square metres of space in the enclosed area, or
    - (ii) for other gatherings—1 person per 4 square metres of space in the enclosed area,
  - (b) 3,000 persons.
- (5) The Minister directs that the organiser of a controlled outdoor public gathering must ensure that the gathering does not last longer than 5 hours.
- (6) This clause does not apply to a significant event or a religious service.  
**Note.** See clause 12 and Division 3.



## **Division 6 Use of premises for specific activities**

### **23 Direction of Minister concerning holiday homes and short-term rentals**

The Minister directs that the occupier of premises may not allow the premises to be used for the purpose of a holiday home or a short-term rental for more than 20 persons unless all of those persons are from the same household.

### **24 Direction of Minister concerning nightclubs**

The Minister directs that premises may not be used for the purpose of a nightclub.

### **25 Direction of Minister concerning music festivals**

The Minister directs that premises may not be used for the purpose of the following—

- (a) a music festival within the meaning of the *Music Festivals Act 2019*,
- (b) an event in an indoor area attended by more than 500, but fewer than 2,000 persons, that would be a music festival within the meaning of that Act if it were attended by 2,000 or more persons.

### **26 Direction of Minister concerning auctions, open houses or other inspections or viewings**

- (1) If a real estate agent is engaged to sell or lease real property, the Minister directs that the agent must ensure that an auction, open house or other inspection or viewing of the property is conducted in compliance with a relevant COVID-19 Safety Plan.

- (2) In this clause—

*real estate agent* has the same meaning as in the *Property and Stock Agents Act 2002*.  
*relevant COVID-19 Safety Plan* means a COVID-19 Safety Plan that addresses the matters required by the approved COVID-19 safety checklist for auctions and open houses approved on 23 July 2020.

### **26A Direction of Minister for religious services held on premises other than place of public worship**

The Minister directs that the person principally responsible for organising a religious service on premises other than a place of public worship must—

- (a) have and comply with a COVID-19 Safety Plan that addresses the matters required by the approved COVID-19 safety checklist set out opposite the type of event in column 3 of Schedule 1 approved on the date specified in column 4 of Schedule 1, and
- (b) keep a copy of the COVID-19 Safety Plan on the premises and make it available for inspection by an authorised officer or a police officer as requested.

## **Division 7 Lord Howe Island**

### **27 Directions of Minister about Lord Howe Island**

- (1) The Minister directs that an owner or operator of a short-term rental, or of tourist and visitor accommodation, on Lord Howe Island must—

- (a) develop and comply with a COVID-19 Safety Plan that addresses the matters required by the “Hotels and accommodation on Lord Howe Island” approved COVID-19 safety checklist approved on 24 September 2020, and
- (b) keep a copy of the COVID-19 Safety Plan and make it available for inspection by an authorised officer or police officer as requested, and

- (c) register with the NSW Government as a COVID-19 Safe business.
- (2) The Minister directs that the following must register with the NSW Government as a COVID-19 Safe business—
  - (a) an occupier of a community centre on Lord Howe Island,
  - (b) an occupier of a vessel used for hosting functions or for commercial tours that operates from or near Lord Howe Island.

**Note.** For how to register as a COVID-19 Safe business, see the NSW Government website at [www.nsw.gov.au](http://www.nsw.gov.au)

## Part 3 Records and exchange of information

### 28 Directions of Minister concerning persons providing contact details

- (1) The Minister directs that a person who enters premises specified in Schedule 3, subject to the exceptions in the Schedule, must provide the person's contact details to the occupier of the premises in accordance with this clause.
  - (2) The Minister directs that 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 as follows—
    - (a) for a person entering premises to attend a significant event at a place of public worship or entering premises for a religious service—
      - (i) directly to the occupier of the premises, or
      - (ii) by electronically registering the person's contact details with Service NSW by means of a mobile phone or other device at the time the person enters the premises,
    - (b) in other cases—by electronically registering the person's contact details by means of a mobile phone or other device at the time the person enters the premises with—
      - (i) Service NSW, or
      - (ii) the occupier of the premises.
- Note.** For 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 Minister directs that the occupier of premises to whom a person's contact details are provided in the manner specified in subclause (3)(a)(i) or (b)(ii) 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).
  - (4A) Subclause (4)(c) does not apply to a gymnasium if no more than 20 persons are allowed to use the gymnasium at the same time.
  - (5) If a significant event or religious service is held or conducted at an outdoor public place, other than a place specified in Schedule 3, Part 1, the person organising, conducting or otherwise officiating at the event or service is taken to be the occupier of the premises for the purposes of this clause.
  - (5A) If a person required under this clause to provide contact details by means 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.
  - (5B) If a person is required under this clause to provide contact details by means of electronic registration but, by reason 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.

**Note.** Examples of unexpected circumstances for the purposes of this clause are a failure of internet service or a breakdown of all of the occupiers computers or other devices.

- (6) 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.

## 29 Direction of Minister concerning information exchange

- (1) The Minister directs that a government sector agency or a NSW Minister (the **first agency**) is authorised to collect information from, or use or disclose information to, a related agency if the first agency considers it necessary to do so for the purposes of protecting the health or welfare of members of the public during the COVID-19 pandemic.
- (2) In this clause—  
**government sector agency** means a government sector agency within the meaning of the *Government Sector Employment Act 2013*.  
**information** includes personal information or health information.  
**NSW Minister** means a Minister of the State.  
**related agency** means—
  - (a) a government sector agency or NSW Minister, or
  - (b) an agency or Minister of the Commonwealth or another State or Territory.

## Part 4 Miscellaneous

### 30 Exemptions

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

### 31 Repeal

The *Public Health (COVID-19 Restrictions on Gathering and Movement) Order (No 4) 2020* is repealed on the commencement of this Order.

### 32 Savings

- (1) 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.
- (2) If, immediately before the commencement of this Order, a person was required to keep a record of a person's name and contact details under the repealed Order, that requirement continues under this Order as if the repealed Order remained in force.
- (3) If, immediately before the commencement of this Order, an exemption granted by the Minister under the repealed Order was in force, that exemption continues as if it were granted under this Order.
- (4) A delegation given in respect of a provision of the repealed Order continues to have effect as a delegation in respect of the corresponding provision of this Order.
- (5) In this clause—  
**repealed Order** means the *Public Health (COVID-19 Restrictions on Gathering and Movement) Order (No 4) 2020*.

## Schedule 1 Premises and events requiring COVID-19 Safety Plan

Clauses 7(1)(a), 18(1)(a), 20(a), 21B(a), 22(4)(c)(i), 22A(2)(a) and 26A(a)

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Item</b>	<b>Premises or event</b>	<b>Checklist</b>	<b>Approval date</b>
1	Amusement centres	Theme parks and amusement centres	20 November 2020
2	Aquariums	Zoos, reptile parks and aquariums	20 November 2020
3	Business premises that are used for auction houses, other than clearing houses	Auction and open houses	20 November 2020
4	Business premises that are used for betting agencies	Betting agencies	20 November 2020
5	Business premises that are used for nail salons, beauty salons, waxing salons, tanning salons, spas, tattoo parlours and massage parlours	Beauty and other services	20 November 2020
6	Caravan parks and camping grounds	Caravan parks and camping grounds	20 November 2020
7	Casinos	Pubs and clubs (including small bars, cellar doors, breweries, distilleries, casinos and karaoke bars)	20 November 2020
8	Community centres	Community centres and halls	20 November 2020
9	Community sporting activities	Community sporting competitions and full training activities	20 November 2020
9A	Controlled outdoor public gatherings	Controlled outdoor events	20 November 2020
10	Corporate events	Functions and corporate events	20 November 2020
11	Crematoria	General	20 November 2020
12	Drive-in cinemas	Cinemas, theatres and concert halls (including drive-in cinemas)	20 November 2020
13	Entertainment facilities	Cinemas, theatres and concert halls (including drive-in cinemas)	20 November 2020
14	Food and drink premises	Restaurants and cafes (including food courts and other food and drink premises)	20 November 2020
15	Food courts	Restaurants and cafes (including food courts and other food and drink premises)	20 November 2020
16	Function centres	Function centres	20 November 2020
17	Funeral homes	General	20 November 2020

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Item</b>	<b>Premises or event</b>	<b>Checklist</b>	<b>Approval date</b>
18	Funerals and memorial services and gathering after funerals and memorial services	Funerals, memorial services and wakes	20 November 2020
19	Gymnasiums	Indoor gymnasiums	20 November 2020
20	Information and education facilities (other than libraries)	Museums and galleries	20 November 2020
21	Libraries	Libraries	20 November 2020
22	Markets	Non-food markets	25 September 2020
23	Micro-breweries, small distilleries holding a drink on-premises authorisation under the <i>Liquor Act 2007</i> or cellar door premises	Pubs and clubs (including small bars, cellar doors, breweries, distilleries, casinos and karaoke bars)	20 November 2020
23A	Outdoor music rehearsals or performances	Outdoor gatherings for music rehearsal and performance	20 November 2020
24	Party buses	Commercial vessels (including tours, functions, parties or similar recreational activities) and party buses	20 November 2020
25	Places of public worship and religious services on other premises	Places of worship and religious gatherings	20 November 2020
26	Properties operated by the National Trust or the Historic Houses Trust	Museums and galleries	20 November 2020
26A	Protests or demonstrations about governmental or political matters	Outdoor protests	20 November 2020
27	Public indoor swimming pools	Swimming pools	20 November 2020
28	Public outdoor swimming pools	Swimming pools	20 November 2020
29	Pubs, small bars and registered clubs	Pubs and clubs (including small bars, cellar doors, breweries, distilleries, casinos and karaoke bars)	20 November 2020
30	Recreation facilities (indoor) (other than gymnasiums)	Indoor recreation facilities (including health and dance studios and martial arts training facilities)	20 November 2020
31	Recreation facilities (major) (other than theme parks)	Major recreation facilities, stadiums, showgrounds, racecourses	20 November 2020
32	Sex on premises venues, being restricted premises where sex between patrons is permitted on the premises	Sex on premises	20 November 2020
33	Sex services premises	Sex services	20 November 2020
34	Strip clubs	Strip clubs	20 November 2020
35	Theme parks	Theme parks and amusement centres	20 November 2020

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Item</b>	<b>Premises or event</b>	<b>Checklist</b>	<b>Approval date</b>
36	Vessels used for hosting functions or for commercial tours	Commercial vessels (including tours, functions, parties or similar recreational activities) and party buses	20 November 2020
37	Wedding services and gatherings after wedding services	Wedding ceremonies and receptions	20 November 2020
38	Zoological parks and reptile parks	Zoos, reptile parks and aquariums	20 November 2020

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## Schedule 2 Exempted gatherings

- 1 a gathering at an airport that is necessary for the normal business of the airport
- 2 a gathering for the purposes of or related to transportation, including in vehicles or at truck stops, stations, platforms or stops or other public transportation facilities but not a gathering on a vehicle being used as a party bus
- 3 a gathering at a hospital or other medical or health service facility that is necessary for the normal business of the facility
- 4 a gathering for the purposes of emergency services, including the provision of training by an emergency service
- 5 a gathering at a prison, correctional facility, youth justice centre or other place of custody
- 6 a gathering at a disability or aged care facility that is necessary for the normal business of the facility
- 7 a gathering at a court or tribunal
- 8 a gathering at Parliament for the purpose of its normal operations
- 9 a gathering at a supermarket, market that predominately sells food, grocery store or shopping centre (but not a retail store in a shopping centre other than a supermarket, market that predominately sells food or grocery store) that is necessary for the normal business of the supermarket, market, store or centre
- 10 a gathering at an office building, farm, factory, warehouse, commercial fishing operation or mining or construction site or on a commercial vessel (excluding vessels providing tours or hosting functions) that is necessary for the normal operation of the tenants within the building, farm, factory, warehouse, commercial fishing operation or site or of the commercial vessel
- 11 a gathering at a school, university or other educational institution or child care facility that is necessary for the normal business of the school, university, institution or facility but does not include a school event that involves members of the community in addition to staff and students
- 12 a gathering at a hotel, motel or other accommodation facility that is necessary for the normal operation of accommodation services at that hotel, motel or other facility
- 13 a gathering at an outdoor space for the purposes of transiting through the place  
**Example.** Pitt St Mall
- 14 a gathering to provide a service to assist vulnerable members of the public, including, for example, a food bank or a service providing for the needs of homeless persons
- 15 a gathering at premises that is necessary to provide the services of an early education and care facility

## Schedule 3 Premises requiring electronic entry records

Clause 28(1)

### Part 1 Premises

- 1 Amusement centres
- 2 Aquariums
- 3 Business premises that are used for auction houses, other than clearing houses
- 4 Business premises that are used for nail salons, beauty salons, hairdressing salons, waxing salons, tanning salons, spas, tattoo parlours and massage parlours
- 5 Crematoria
- 6 Drive-in cinemas
- 7 Entertainment facilities
- 8 Hospitality venues as follows—
  - (a) Casinos
  - (b) Food and drink premises, other than food courts—only for a person entering the premises to consume food or drink on the premises and persons who are staff and contractors
  - (c) Micro-breweries, small distilleries holding a drink on-premises authorisation under the *Liquor Act 2007* and cellar door premises—only for a person entering the premises to consume food or drink on the premises and persons who are staff and contractors
  - (d) Pubs, small bars and registered clubs—for persons entering the premises, but not if the person is entering the premises solely for the purpose of collecting food or drink to consume off the premises
- 9 Function centres
- 10 Funeral homes
- 11 Information and education facilities (other than libraries)
- 12 Party buses
- 13 Properties operated by the National Trust or the Historic Houses Trust
- 14 Public swimming pools
- 15 Recreation facilities (indoor)
- 16 Recreation facilities (major)
- 17 Sex on premises venues, being restricted premises where sex between patrons is permitted on the premises
- 18 Sex services premises
- 19 Strip clubs

**20** Vessels used for hosting functions or for commercial tours

**21** Zoological parks and reptile parks

**Part 2 Premises at which the following events are being held**

**22** Controlled outdoor public gatherings

**23** Corporate events

**24** Funerals and memorial services and gatherings after funerals and memorial services

**25** Wedding services and gatherings after wedding services

**Note.** Under clause 28(3)(a) electronic recording of entry is not mandatory for persons entering premises to attend a significant event at a place of public worship or entering premises for a religious service.