



New South Wales

Public Health (COVID-19 Restrictions on Gathering and Movement) Order (No 5) Amendment Order (No 3) 2020

under the

Public Health Act 2010

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

Dated 20 November 2020.

BRAD HAZZARD, MP
Minister for Health and Medical Research

Explanatory note

The object of this Order is to amend the *Public Health (COVID-19 Restrictions on Gathering and Movement) Order (No 5) 2020* in relation to the following—

- (a) electronic recording of contact details when entering certain premises,
- (b) outdoor music rehearsals and performances and outdoor religious services held at places of public worship,
- (c) the maximum number of persons permitted at weddings and funerals,
- (d) controlled outdoor public gatherings,
- (e) other minor clarifications and changes.

Public Health (COVID-19 Restrictions on Gathering and Movement) Order (No 5) Amendment Order (No 3) 2020

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Public Health Act 2010

1 Name of Order

This Order is the *Public Health (COVID-19 Restrictions on Gathering and Movement) Order (No 5) Amendment Order (No 3) 2020*.

2 Commencement

- (1) Except as provided by subclause (2), this Order commences at the beginning of 23 November 2020.
- (2) Schedule 1.2 commences at the beginning of 1 December 2020.

Schedule 1 Amendment of Public Health (COVID-19 Restrictions on Gathering and Movement) Order (No 5) 2020

1.1 General amendments

[1] Clause 3 Definitions

Insert in alphabetical order in clause 3(1)—

controlled outdoor public gathering—see clause 22A.

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.

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

[2] Clause 3(1)

Omit the definition of *hospitality venue with electronic entry recording* from clause 3(1).

[3] Clause 8 Direction of Minister about the number of persons allowed on premises

Insert “(2)” before “This clause does not apply to—”.

[4] Clause 8(2)(j) and (k)

Insert at the end of clause 8(2)(i)—

, 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.

[5] Clause 9 Directions of Minister about hospitality venues

Omit “with electronic entry recording” from clause 9(1).

[6] Clause 9(4) and (7)

Omit the subclauses.

[7] Clause 11A

Insert after clause 11—

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.

[8] Clause 12, heading

Insert “or religious service” after “significant event”.

[9] Clause 12

Insert “or religious service” after “significant event” wherever occurring.

[10] Clause 12

Insert “or service” after “that event”.

[11] Clause 17 Restrictions on certain activities

Insert “or religious service” after “significant event” in clause 17(1).

[12] Clause 17(4) and (4A)

Omit clause 17(4). Insert instead—

- (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.

[13] Clause 17(5A)

Omit “with electronic entry recording”.

[14] Clause 17(7)

Insert “or religious service” after “significant event”.

[15] Clause 21C Direction of Minister concerning maximum number of participants

Insert at the end of the clause—

- (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.

[16] Clause 21D

Insert after clause 21C—

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

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

[17] Clause 22 Direction of Minister concerning outdoor public gatherings

Omit clause 22(3)(d1) and (e). Insert instead—

- (e) a significant event or religious service,

[18] Clause 22(3)(k)

Insert after clause 22(3)(j)—

- (k) a controlled outdoor public gathering.

[19] Clause 22A

Insert after clause 22—

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.

[20] Clause 25

Omit the clause. Insert instead—

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.

[21] Clause 28 Directions of Minister concerning persons providing contact details

Omit clause 28(1). Insert instead—

- (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.

[22] Clause 28(2)

Omit "subclause (3)". Insert instead "this clause".

[23] Clause 28(3)

Omit the subclause. Insert instead—

- (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.

[24] Clause 28(4)

Omit "subclause (3)(a)". Insert instead "subclause (3)(a)(i) or (b)(ii)".

[25] Clause 28(4)(b)

Omit "12 hours". Insert instead "4 hours".

[26] Clause 28(4)(c)

Insert at the end of clause 28(4)(b)—

, 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).

[27] Clause 28(4A)

Insert after clause 28(4)—

- (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.

[28] Clause 28(5)

Omit the subclause. Insert instead—

- (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.

[29] Clause 28(5A) and (5B)

Insert after clause 28(5)—

- (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.

[30] Schedule 1 Premises and events requiring COVID-19 Safety Plan

Insert “, 22A(2)(a)” after “22(4)(c)(i)”.

[31] Schedule 1

Omit the approval dates for all items in Schedule 1, except Item 22 (Non-food markets checklist).

Insert instead “20 November 2020”.

[32] Schedule 1, item 9A

Insert after item 9—

9A Controlled outdoor public gatherings Controlled outdoor events 20 November 2020

[33] Schedule 3

Insert after Schedule 2—

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.

1.2 Amendments relating to funerals and weddings

[1] Clause 17 Restrictions on certain activities

Omit “100 persons” from clause 17(3)(b). Insert instead “300 persons”.

[2] Clause 17(5)

Omit the subclause. Insert instead—

- (5) For a wedding service, or a gathering following a wedding service, the maximum number of persons is the lesser of the following—
 - (a) for a service or gathering in an indoor area—the number of persons that is equivalent to 1 person per 4 square metres of space in the area,
 - (b) for a service or gathering in an outdoor area—the number of persons that is equivalent to 1 person per 2 square metres of space in the area,
 - (c) for a service or gathering in both an indoor and outdoor area, the total of—

- (i) the number of persons that is equivalent to 1 person per 4 square metres of space in the indoor area, and
 - (ii) the number of persons that is equivalent to 1 person per 2 square metres of space in the outdoor area,
 - (d) 300 persons.
- (5AA) A reference in Part 2, Division 1, other than clause 9, to a density limit of 1 person per 4 square metres is taken, for a wedding service, or a gathering following a wedding service, to be a reference to the applicable density limit specified in subclause (5)(a), (b) or (c).