Public Health (COVID-19 Safety) Order 2021
under the
Public Health Act 2010

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

Dated 28 August 2021.

BRAD HAZZARD, MP
Minister for Health and Medical Research

Explanatory note
The object of this Order is to repeal the Public Health (COVID-19 Gathering Restrictions) Order (No 2) 2021 and remake provisions of that Order that deal with the following—
(a) COVID-19 Safety Plans,
(b) COVID-19 Safe Check-ins,
(c) the exchange of information,
(d) residential aged care facilities.
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Public Health (COVID-19 Safety) Order 2021

under the

Public Health Act 2010

Part 1 Preliminary

1 Name of Order

This Order is the Public Health (COVID-19 Safety) Order 2021.

2 Commencement

This Order commences at the beginning of 29 August 2021.

3 Definitions

(1) The Dictionary in Schedule 4 defines words used in this Order.

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

(2) Words used in this Order have the same meaning as if they were in the Public Health (COVID-19 Additional Restrictions for Delta Outbreak) Order (No 2) 2021.

(3) Notes included in this Order do not form part of this Order.

4 Coastal waters taken to be part of local government areas

For the purposes of this Order, the coastal waters of the State are taken to form part of the local government area to which the particular waters are closest.

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 the ongoing COVID-19 pandemic.
Part 2 COVID-19 Safety Plans

6 Introduction

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

7 Definitions

In this Part—

approved COVID-19 safety checklist for premises or an event means the COVID-19 safety checklist—

(a) approved by the Chief Health Officer for the premises or event, and
(b) published on the NSW Government website, and
(c) as in force for the time being.

COVID-19 Safety Plan, for premises or an event, means a plan that addresses the matters required by the approved COVID-19 safety checklist specified in Schedule 1 for the premises or event.

develop a COVID-19 Safety Plan includes adopt an appropriate COVID-19 Safety Plan.

8 Plans must be complied with and kept and made available for inspection

A person who is required to develop a COVID-19 Safety Plan under this Part for premises or an event must—

(a) comply with the plan, and
(b) keep a copy of the plan—
   (i) for premises—at the premises, or
   (ii) for an event—at the premises at which the event is held during the event, and
(c) make the plan available for inspection, if requested to do so, by—
   (i) an authorised officer, or
   (ii) a police officer.

9 Premises

(1) The occupier of premises listed in Schedule 1 must develop a COVID-19 Safety Plan for the premises.

(2) For premises that are a short-term rental or tourist and visitor accommodation on Lord Howe Island, the owner or operator of the premises is taken to be the occupier of the premises.

10 Events

(1) The responsible person specified in clause 11 for the following events must develop a COVID-19 Safety Plan for the event—

(a) a significant event,
(b) an event that is a large residential gathering,
(c) a relevant agricultural event,
(d) an event that is a religious service,
(e) a relevant sale or leasing event for real estate,
(f) an event that is a controlled outdoor public gathering.
(2) A COVID-19 Safety Plan is not required for an event held at premises for which a COVID-19 Safety Plan is required under clause 9.

11 Responsible person for an event

The responsible person is—

(a) for a significant event—
   (i) if held in an outdoor public place—the person organising the event or conducting the service, or
   (ii) otherwise—the occupier of the premises at which the event is held, or
(b) for an event that is a large residential gathering—
   (i) if held at premises being used for the purpose of a holiday home or a short-term rental—the occupier of the premises, or
   (ii) otherwise—each adult member of the household, or
(c) for a relevant agricultural event—
   (i) if conducted by or on behalf of an entity registered under the Associations Incorporation Act 2009—the public officer of the entity, or
   (ii) if conducted by or on behalf of another entity—the chief executive of the entity, however described, or
   (iii) otherwise—the person who made the arrangements for the event, or
(d) for an event that is a religious service—the person principally responsible for organising the event, or
(e) for a relevant sale or leasing event for real estate—the real estate agent conducting the event, or
(f) for an event that is a controlled outdoor public gathering—the person principally responsible for organising the event.

12 COVID-19 safe outdoor public gatherings

(1) The person principally responsible for organising an event that is an outdoor public gathering may elect to make the event a COVID-19 safe outdoor public gathering by—

   (a) developing a COVID-19 Safety Plan for the event, and
   (b) complying with the plan, and
   (c) keeping a copy of the plan at the premises at which the event is held during the event, and
   (d) making the plan available for inspection, if requested to do so, by—
      (i) an authorised officer, or
      (ii) a police officer.

(2) This clause does not apply to the following—

   (a) an event held at premises for which a COVID-19 Safety Plan is required under clause 9,
   (b) an event for which a COVID-19 Safety Plan is required under clause 10,
   (c) a gathering referred to in Schedule 2,
   (d) a gathering to provide emergency assistance to a person.
Part 3  COVID Safe Check-in

14 Certain events taking place in outdoor public place or residential premises

(1) Where 1 of the following events is taking place at premises that is an outdoor public place, the person who is required to develop a COVID-19 Safety Plan for the event under Part 2, is taken to be the occupier of the premises for the purposes of this Part—
   (a) a significant event,
   (b) a relevant agricultural event,
   (c) an event that is a religious service.

(2) For an event that is a large residential gathering, the person who is required to develop a COVID-19 Safety Plan for the event under Part 2, is taken to be the occupier of the premises for the purposes of this Part.

15 How contact details are to be registered

(1) This clause applies to a person who enters premises specified in Schedule 3, subject to the exceptions in the Schedule.

(2) The person must ensure the person’s contact details are registered electronically when the person enters the premises—
   (a) by using the person’s phone to register the details with Service NSW, or
   (b) by having another person use a phone to register the details with Service NSW on the person’s behalf if the person is not able to use the person’s phone to register the details with Service NSW, or
   (c) by providing the details to the occupier of the premises if—
      (i) it is not possible to register the person’s details under paragraph (a) or (b), or
      (ii) it would be unsafe to use a phone on the premises because of the nature of the premises.

Example— If using a phone would be inconsistent with the work health and safety requirements at the premises.

Note— The occupier of premises may refuse entry to a person who fails to comply with this direction.

(3) The occupier of the premises must take reasonable steps to ensure a person complies with this clause when entering the premises.

(4) If the premises are a vehicle, the registered operator of the vehicle must ensure that the vehicle is not used as a taxi or hire vehicle unless—
   (a) the vehicle is registered with Service NSW, and
   (b) provision is made to enable passengers, when entering the vehicle, to register contact details using a phone in accordance with this clause.

(5) A person is not required to register the person’s contact details when entering premises contained within and only accessible through other premises (the main premises) unless—
   (a) the premises being entered are—
(i) a gym, or
(ii) an entertainment facility, or
(iii) a hospitality venue, or
(iv) a nightclub, or
(v) retail premises, or
(b) the person was not required to register the person’s contact details in accordance with this clause when entering the main premises.

(6) In this clause—

phone includes a device.

registered operator has the same meaning as in the Road Transport Act 2013.

16 Record keeping by occupiers concerning contact details

(1) This clause applies to the occupier of premises if a person’s contact details are provided to the occupier under clause 15(2) rather than Service NSW.

(2) The occupier must—

(a) keep, for at least 4 weeks, a record of the contact details in a way that ensures the record is readily accessible and in an appropriate form to provide to the Chief Health Officer under paragraph (b), and

(b) on request, provide the record, in electronic form, 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).

17 Use and disclosure of information

To avoid any doubt, it is directed that contact details provided under clause 15 are to be used or disclosed only for the purposes of contact tracing during the COVID-19 pandemic.
Part 4  Other directions

18  Introduction

This Part sets out other directions of the Minister.

19  Information exchange

(1) A government sector agency or a NSW Minister (the first agency) is authorised to collect or use information from, 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** has the same meaning as in 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.

20  Residential aged care facilities

(1) The operator of a residential aged care facility is directed to consider the advice of the Chief Health Officer in relation to the following matters—

- (a) the management of visitors to the premises of the facility,
- (b) the screening of staff and visitors before entering the premises of the facility,
- (c) the conduct of group recreational or other activities for residents of the facility,
- (d) the wearing of face masks by staff and visitors,
- (e) vaccinations against influenza or COVID-19 for staff, visitors and residents.

(2) In this clause—

- **operator** of a residential aged care facility means the person who owns, controls or operates the facility.
Part 5  Miscellaneous

21  Exemptions
(1) 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
(2) The Minister may not grant an exemption to clause 17.

22  Repeal
The Public Health (COVID-19 Gathering Restrictions) Order (No 2) 2021 is repealed on the commencement of this Order.

23  Savings
(1) An 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) Without limiting subclause (1)—
(a) a requirement under the repealed Order immediately before the commencement of this Order for a person to keep a record of a person’s name and contact details continues under this Order as if the repealed Order remained in force, and
(b) an exemption granted by the Minister under the repealed Order in force immediately before the commencement of this Order continues as if it were granted under this Order, and
(c) a delegation in force immediately before commencement of this Order given for a provision of the repealed Order continues to have effect for the corresponding provision of this Order.
(3) In this clause—
Schedule 1  COVID-19 Safety Plans

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Schedule 2   Exempted gatherings

clause 12

1. Gathering at an airport that is necessary for the normal business of the airport

2. 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. Gathering at a hospital or other medical or health service facility that is necessary for the normal business of the facility

4. Gathering for the purposes of emergency services, including the provision of training by an emergency service

5. Gathering at a prison, correctional facility, youth justice centre or other place of custody

6. Gathering at a disability or aged care facility that is necessary for the normal business of the facility

7. Gathering at a court or tribunal

8. Gathering at Parliament for the purpose of its normal operations

9. 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. 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. 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. 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. Gathering at an outdoor space for the purposes of transiting through the place Example. Pitt St Mall

14. 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. Gathering at premises that is necessary to provide the services of an early education and care facility
Schedule 3  COVID-19 Safe Check-ins

Part 1  Premises

1  Amusement centres
2  Aquariums
3  Business premises, being premises at which—
   (a) an occupation, profession or trade 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
4  Construction sites
5  Crematoria
6  Drive-in cinemas
7  Early education and care facilities, but not a child entering a facility for the purposes
   of being cared for at the facility
8  Entertainment facilities
9  Function centres
10 Hospitality venues
11 Hospitals, but not a hospital that has an electronic entry recording system that records
    sufficient information about persons entering the hospital to enable contact tracing to
    occur
12 Hotels or motels or other accommodation facilities, but not for a person who—
   (a) has checked in and is staying overnight, or
   (b) is a resident
13 Industrial premises, being premises used for the—
   (a) manufacturing, production, assembling, altering, formulating, repairing,
       renovating, ornamenting, finishing, cleaning, washing, dismantling,
       transforming, processing, recycling, adapting or servicing of, or the research
       and development of, any goods, substances, food, products or articles for
       commercial purposes, and includes any storage or transportation associated
       with the activity, or
   (b) handling, treating, production, processing, storage or packing of animal or
       plant agricultural products for commercial purposes
14 Information and education facilities
15 Nightclubs
16 Office premises, being premises used for the purpose of administrative, clerical,
   technical, professional or similar activities that do not include dealing with members
   of the public at the building or place on a direct and regular basis
17 Parliament House  
18 Party buses  
19 Places of public worship  
20 Properties operated by the National Trust or the Historic Houses Trust  
21 Public swimming pools, other than a natural swimming pool  
22 Recreation facilities (indoor)  
23 Recreation facilities (major)  
24 Residential care facilities or hostels, but not residents  
25 Retail premises, being premises used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials or whether also sold by wholesale  
26 School, university or other educational institution, but not a student of a school entering the school  
27 Sex on premises venues, being restricted premises where sex between patrons is permitted on the premises  
28 Sex services premises  
29 Shopping centres  
30 Storage premises  
31 Strip clubs  
32 Vehicles being used as taxis or hire vehicles  
33 Vessels used for hosting functions or for commercial tours  
34 Warehouse or distribution centres  
35 Zoological parks and reptile parks  

Part 2 Premsises at which the following events are being held  
36 a significant event  
37 a large residential gathering  
38 Agricultural shows or agricultural field days  
39 Religious services and gatherings after religious services  
40 Controlled outdoor public gatherings  
41 COVID-19 safe outdoor public gatherings
Part 3   General exceptions

42 The following persons are not required to provide contact details when entering premises specified in this Schedule—
   (a) a person entering the premises in response to an emergency
   (b) a person entering premises in a vehicle if the person does not exit the vehicle while on the premises
   (c) a person entering the premises who is under the age of 18 years if it is not possible to register the person’s details under clause 15 of this Order
   (d) a person exercising law enforcement, intelligence or national security functions on behalf of a government agency of New South Wales or the Commonwealth
   (e) a person entering any health or medical facility, other than a pharmacy, as a patient

43 Despite the other provisions of this Schedule, the following premises are not premises specified in this Schedule—
   (a) mines
   (b) premises used by a government agency of New South Wales or the Commonwealth having law enforcement, intelligence or national security functions
   (c) farms
Schedule 4  Dictionary

clause 3

agricultural field day means an agricultural field day conducted by a member of the Association of Agricultural Field Days of Australasia.

agricultural show means an agricultural show or show parade conducted by a society or association that is a member of the Agricultural Societies Council of NSW Ltd.

approved COVID-19 safety checklist, for Part 2—see clause 7.

cinema means a cinema that is an entertainment facility open to members of the public.

contact details, for a person visiting or entering premises, 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.

controlled outdoor public gathering means an outdoor public gathering, other than a gathering referred to in Schedule 2, in an 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, and
(c) in relation to which all persons, other than persons engaged in work, are assigned to specific seats or to a seating area.

COVID-19 safe outdoor public gathering—see clause 12.

COVID-19 Safety Plan, for Part 2—see clause 7.

develop, for Part 2—see clause 7.

event includes a function.

gym means a gym 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.

hire vehicle has the same meaning as in the Point to Point Transport (Taxis and Hire Vehicles) Act 2016.

large residential gathering means a gathering—

(a) at a place of residence, including premises being used for the purposes of a holiday home or a short-term rental, and
(b) at which there are more than 100 persons, not including members of the household, at any 1 time.

real estate agent has the same meaning as in the Property and Stock Agents Act 2002.

relevant agricultural event means an agricultural show or an agricultural field day at which there are more than 200 persons including participants and spectators.

relevant sale or leasing event for real estate means—

(a) an auction of real estate, or
(b) an open house, or other inspection or viewing of real estate.

taxi has the same meaning as in the Point to Point Transport (Taxis and Hire Vehicles) Act 2016.

the Act means the Public Health Act 2010.
Schedule 5 Amendment of Public Health (COVID-19 Additional Restrictions for Delta Outbreak) Order (No 2) 2021

[1] Clause 1.7 Order prevails over certain other Orders

Omit clause 1.7(a). Insert instead—

(a) the Public Health (COVID-19 Safety) Order 2021,

[2] Schedule 4 Dictionary


Insert instead “Public Health (COVID-19 Safety) Order 2021”.