



New South Wales

# Public Health (COVID-19 Spitting and Coughing) 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 18 September 2020.

BRAD HAZZARD, MP  
Minister for Health and Medical Research

## Explanatory note

The object of this Order is to deal with the public health risk of COVID-19 and its possible consequences by giving a Ministerial direction about intentionally spitting at or coughing on public officials or other workers in a way that is reasonably likely to cause fear about the spread of COVID-19.

Section 10 of the *Public Health Act 2010* creates an offence if an individual fails to comply with a direction with a maximum penalty of imprisonment for 6 months or a fine of up to \$11,000, or both, plus a further \$5,500 fine each day the offence continues.

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## Public Health (COVID-19 Spitting and Coughing) Order (No 3) 2020

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### 1 Name of Order

This Order is the *Public Health (COVID-19 Spitting and Coughing) Order (No 3) 2020*.

### 2 Commencement

This Order commences at the beginning of 25 September 2020.

### 3 Definitions

In this Order—

**health worker** means—

- (a) a person employed in the NSW Health Service within the meaning of the *Health Services Act 1997*, or
- (b) a person engaged by the Health Administration Corporation, within the meaning of the *Health Administration Act 1982*, to enable the Corporation to exercise its functions, or
- (c) a person engaged by a public health organisation, within the meaning of the *Health Services Act 1997*, to enable the organisation to exercise its functions, or
- (d) a member of staff of a licensed private health facility within the meaning of the *Private Health Facilities Act 2007*, or
- (e) a registered health practitioner, or
- (f) a person who works in a pharmacy or on other premises at which a registered health practitioner routinely practises the practitioner's profession, or
- (g) a member of staff of St John Ambulance Australia (NSW), or
- (h) a member of staff of the Royal Flying Doctor Service of Australia (NSW Section).

**public official** means—

- (a) a health worker, or
- (b) a police officer within the meaning of the *Police Act 1990*, or
- (c) another person exercising public functions under a law of New South Wales, or
- (d) an Immigration and Border Protection worker within the meaning of the *Australian Border Force Act 2015* of the Commonwealth, or
- (e) a person employed or otherwise engaged by the Commonwealth Department of Health.

**Note.** The *Public Health Act 2010* and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Order.

#### 4 Grounds for concluding there is a risk to public health

It is noted the basis for concluding 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 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.

#### 5 Direction—spitting or coughing on public official or other worker

- (1) The Minister directs a person must not intentionally spit at or cough on any of the following persons in a way that would reasonably be likely to cause fear about the spread of COVID-19—
  - (a) a public official,
  - (b) another worker while the worker is—
    - (i) at the worker’s place of work, or
    - (ii) travelling to or from the place of work.
- (2) If the worker’s place of work is the worker’s residential premises, the place of work does not, for the purposes of this clause, include a part of the premises used solely for residential purposes.
- (3) Without limiting subclause (1)(b), a worker includes the following—
  - (a) a retail worker,
  - (b) a person who works at an airport,
  - (c) a person who works for an electricity, gas, water or other utility company,
  - (d) a person who works in the transport industry or a transport-related industry,
  - (e) a member of the Australian Defence Force.

**Example.** Examples of public officials and workers include hospital staff, bus drivers, train drivers, ferry deckhands, taxi drivers, ride share drivers, food delivery workers, security guards, electricity, gas and water meter readers and postal delivery staff, including persons working for an entity under a contract, directly or indirectly, on behalf of the NSW Government.

#### 6 Repeal and savings

- (1) The *Public Health (COVID-19 Spitting and Coughing) Order (No 2) 2020* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Public Health (COVID-19 Spitting and Coughing) Order (No 2) 2020*, had effect under that Order continues to have effect under this Order.

#### 7 Repeal of Order

This Order is repealed at the beginning of 18 December 2020.