



Government Gazette

of the State of

New South Wales

Number 139

Tuesday, 30 June 2020

The New South Wales Government Gazette is the permanent public record of official NSW Government notices. It also contains local council, non-government and other notices.

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New South Wales

Public Health (COVID-19 Restrictions on Gathering and Movement) Order (No 4) 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 30th June 2020.

BRAD HAZZARD, MP

Minister for Health and Medical Research

Explanatory note

The object of this Order is to revoke and remake the *Public Health (COVID-19 Restrictions on Gathering and Movement) Order (No 3) 2020* to ease certain restrictions.

This Order is made under section 7 of the *Public Health Act 2010*.

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Public Health (COVID-19 Restrictions on Gathering and Movement) Order (No 4) 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 4) 2020*.

2 Commencement

This Order commences at the beginning of 1 July 2020.

3 Definitions

(1) In this Order—

event includes a function.

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

occupier of premises includes the operator of a vessel.

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

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*.

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.

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).

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,
 - (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

The Minister directs that occupiers of premises listed in Schedule 1 must—

- (a) develop and comply with a COVID-19 Safety Plan that addresses the matters required by the COVID-19 safety checklist approved by the Chief Health Officer and published on the New South Wales Government website (www.nsw.gov.au)—
 - (i) in relation to the type of premises, or
 - (ii) if no checklist is published for the type of premises, the general checklist applying to all other industries, and
- (b) keep a copy of the COVID-19 Safety Plan on the premises and make it available for inspection by an authorised officer as requested.

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

- (1) The Minister directs that a person who is the 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 recreation facility (major), or
 - (c) a vessel referred to in item 27 of Schedule 1, but only if there are 50 or fewer persons on the vessel, or
 - (d) caravan parks and camping grounds, or
 - (e) holiday homes and short-term rentals, or
 - (f) a gathering referred to in Schedule 2, or
 - (g) a gathering for a funeral or memorial service held at a place of public worship, a funeral home or a crematorium.

9 Direction of Minister about funerals and memorial services

- (1) This clause applies to premises that are—
 - (a) a place of public worship, or
 - (b) a funeral home, or
 - (c) a crematorium.
- (2) The Minister directs that the occupier of premises to which this clause applies must not allow more than 50 persons to be on the premises for a funeral or memorial service, or a gathering immediately after a funeral or memorial service, 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.

10 Directions of Minister about major recreation facilities

- (1) The Minister directs that a person who is 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.

Division 2 Residential premises

11 Direction 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) 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.

12 Direction of Minister for weddings on residential premises

The Minister directs that the occupier of a place of residence must not allow more than 20 visitors to be at the place of residence for a wedding, or a gathering immediately after a wedding, 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.

13 Direction of Minister for funerals and memorial services on residential premises

The Minister directs that the occupier of a place of residence must not allow more than 50 visitors to be at the place of residence for a funeral or memorial service, or a gathering immediately after a funeral or memorial service, 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 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.

Division 3 Community sporting activities

15 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.

16 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 20 participants must—

- (a) develop and comply with a COVID-19 Safety Plan that addresses the matters required by the COVID-19 safety checklist approved by the Chief Health Officer for community sporting competitions and published on the New South Wales Government website (www.nsw.gov.au), and
- (b) keep a copy of the COVID-19 Safety Plan and make it available for inspection by an authorised officer as requested.

17 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 4 Outdoor public gatherings

18 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 20 people.
- (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 16 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,

- (e) a gathering for a wedding, a funeral, a memorial service or a religious service or a gathering immediately after a wedding, a funeral, a memorial service or a 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.

Division 5 Use of premises for specific activities

19 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.

20 Direction of Minister concerning nightclubs

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

21 Direction of Minister concerning music festivals

The Minister directs that premises may not be used for the purpose of a music festival within the meaning of the *Music Festivals Act 2019*, and includes a music festival attended by fewer than 2,000 people.

Part 3 Records and exchange of information

22 Directions of Minister concerning persons providing contact details

- (1) The Minister directs that the following persons must, if required to do so by the occupier of relevant premises, provide the person's contact details to the occupier—
 - (a) a person entering premises to attend a service,
 - (b) a person consuming food or drink on premises that are food and drink premises, micro-breweries, small distilleries holding a drink on-premises authorisation under the *Liquor Act 2007* or cellar door premises,
 - (c) a person entering the premises of a casino,
 - (d) a person entering the premises of a pub, a small bar or a registered club (including premises occupied by a racing club within the meaning of the *Liquor Act 2007*), but not if the person enters the premises solely for the purpose of collecting food or drink to consume off the premises.
- (2) The Minister directs that the occupier of the premises must—
 - (a) require the person to provide the person's contact details unless—
 - (i) the person is a member of a discreet group of people who are attending the premises together, and
 - (ii) the occupier obtains contact details from one adult member of the group (for example a person who makes a booking or reservation), and
 - (b) keep, for at least 4 weeks, a record of all contact details provided under this clause, and
 - (c) on request, provide the record to the Chief Health Officer.
- (3) A person who provides contact details in accordance with subclause (2)(a)(ii) must, at the request of the Chief Health Officer, provide the Chief Health Officer with the name and contact details of all other persons in the group.
- (4) If a service is conducted in an outdoor public place the person conducting or otherwise officiating at the service is taken to be the occupier of the premises.
- (5) In this clause—

contact details of a person means the person's name and their telephone number or email address.

service means a wedding, funeral, memorial or a religious service, or a gathering immediately after a wedding, funeral, memorial or religious service.

23 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

24 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.

25 Repeal

The *Public Health (COVID-19 Restrictions on Gathering and Movement) Order (No 3) 2020* is repealed on the commencement of this Order.

26 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) In this clause—
repealed Order means the *Public Health (COVID-19 Restrictions on Gathering and Movement) Order (No 3) 2020*.

Schedule 1 Premises requiring COVID-19 Safety Plan

- 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 betting agencies
- 5 Business premises that are used for nail salons, beauty salons, waxing salons, tanning salons, spas, tattoo parlours and massage parlours
- 6 Caravan parks and camping grounds
- 7 Casinos
- 8 Community centres
- 9 Drive-in cinemas
- 10 Entertainment facilities
- 11 Food and drink premises
- 12 Food courts
- 13 Function centres
- 14 Information and education facilities
- 15 Markets
- 16 Micro-breweries, small distilleries holding a drink on-premises authorisation under the *Liquor Act 2007* or cellar door premises
- 17 Places of public worship
- 18 Properties operated by the National Trust or the Historic Houses Trust
- 19 Public indoor swimming pools
- 20 Public outdoor swimming pools
- 21 Pubs, small bars and registered clubs
- 22 Recreation facilities (indoor)
- 23 Recreation facilities (major)
- 24 Sex on premises venues, being restricted premises where sex between patrons is permitted on the premises
- 25 Sex services premises
- 26 Strip clubs
- 27 Vessels used for commercial scuba diving and snorkelling tours or for commercial whale, dolphin or marine animal watching tours

- 28** Vessels used for hosting functions or for commercial tours (other than tours specified in item 27)
- 29** Zoological parks and reptile parks

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
- 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

Reference number:(n2020-2099)