



Government Gazette

of the State of

New South Wales

Number 388—Health and Education
Saturday, 19 December 2020

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New South Wales

Public Health (COVID-19 Northern Beaches) Order 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 19 December 2020.

BRAD HAZZARD, MP
Minister for Health and Medical Research

Explanatory note

The object of this Order is to impose additional restrictions on persons in the Northern Beaches local government area to contain the spread of COVID-19.

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Public Health (COVID-19 Northern Beaches) Order 2020

under the

Public Health Act 2010

Part 1 Preliminary

1 Name of Order

This Order is the *Public Health (COVID-19 Northern Beaches) Order 2020*.

2 Commencement

This Order commences at 5.02 pm on 19 December 2020.

3 Definitions

(1) In this Order:

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

indoor space 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.

parent, in relation to a child, includes a person who is not a parent of the child, but who has parental responsibility for, or who has 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, together with any garden, yard, passage, stairs, garage, outhouse or other area or thing attached to, or used in connection with, the premises.

Note. The *Public Health Act 2010* defines premises to include any land, temporary structure, vehicle or vessel.

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*.

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

4 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 outbreaks of COVID-19, which is a condition

caused by the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2),

- (b) COVID-19 is a potentially fatal condition and is highly contagious,
- (c) a number of cases of individuals with COVID-19 have now been confirmed in the Northern Beaches local government area, including by means of community transmission, and there is an ongoing risk of continuing introduction of COVID-19 into the New South Wales community.

5 Application of Order

- (1) This Order applies to the Northern Beaches local government area.
- (2) If there is an inconsistency between this Order and any other order made under section 7 of the *Public Health Act 2010*, this Order prevails to the extent of the inconsistency.

6 Direction of Minister about place of work

- (1) The Minister directs that an employer must allow an employee to work at the employee's place of residence if—
 - (a) the place of residence is in the Northern Beaches local government area, and
 - (b) it is reasonable practicable.
- (2) This clause applies to an employer regardless of whether the employer is in the Northern Beaches local government area.
- (3) In this clause—
place of residence extends to include temporary accommodation if the employee is staying in temporary accommodation.

Part 2 Movement

7 Direction of Minister concerning staying at home

- (1) The Minister directs that a person must not, without reasonable excuse—
 - (a) be away from the person's place of residence, or
 - (b) if the person is staying in temporary accommodation, including hotel or motel accommodation or a short term holiday rental—be away from the temporary accommodation.
- (2) For the purposes of subclause (1), a reasonable excuse includes doing an activity specified by Schedule 1.
Note. Examples of a reasonable excuse in Schedule 1 include leave for reasons involving—
 - (a) obtaining food or other goods and services, or
 - (b) travelling for the purposes of work or education if it is not possible to do it at home, or
 - (c) exercise, or
 - (d) medical or caring reasons.
- (3) For the purposes of subclause (1)(b), it is a reasonable excuse to leave the temporary accommodation if—
 - (a) the period of the booking of the temporary accommodation expires, and
 - (b) the person goes directly to the person's place of residence or other temporary accommodation, and
 - (c) the person continues to comply with this clause, even if the place of residence or other temporary accommodation is outside the Northern Beaches local government area.
- (4) Subclause (2) does not permit a person to participate in a gathering in contravention of Part 3.
- (5) Taking a holiday outside the Northern Beaches local government area is not a reasonable excuse.
- (6) This clause does not apply to a person who is homeless.

8 Direction of Minister concerning entering Northern Beaches local government area

- (1) The Minister directs that a person must not, without reasonable excuse, enter the Northern Beaches local government area.
- (2) For the purposes of subclause (1), a reasonable excuse includes—
 - (a) entering to go to the person's place of residence in the Northern Beaches local government area, or
 - (b) travelling through the Northern Beaches local government area in a vehicle if the person does not leave the vehicle while in the area, or
 - (c) doing an activity specified in clause 1–4, 6–9 or 11–16 of Schedule 1,
 - (d) attending a wedding or funeral that complies with this Order,
- (3) Subclause (2) does not permit a person to participate in a gathering in contravention of Part 3.
- (4) Taking a holiday in the Northern Beaches local government area is not a reasonable excuse.

Part 3 Gatherings of more than 2 persons

9 Direction of Minister concerning gatherings of more than 2 persons

- (1) The Minister directs that a person must not participate in an outdoor public gathering of more than 2 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 referred to in Schedule 2,
 - (b) a gathering of persons all of whom are members of the same household,
 - (c) a gathering for a wedding where—
 - (i) the gathering takes place before the end of 20 December 2020, and
 - (ii) no person dances at the wedding except up to 20 members of the wedding party, and
 - (iii) all persons attending and persons working wear masks, except while eating or drinking, in an emergency or for the purposes of the groom kissing the bride,
 - (d) a gathering for a funeral service at which there are no more than 100 persons (including the person conducting the service),
 - (e) a gathering to provide emergency assistance to a person or persons,
 - (f) a gathering necessary to allow a person to fulfil a legal obligation,
 - (g) a gathering to facilitate a move to a new place of residence (including a business moving to new premises).

Part 4 Closure of certain premises

10 Directions of Minister concerning closure of certain premises

- (1) The Minister directs that the following must not be open to members of the public except as provided in this clause—
- (a) pubs and registered clubs, except for the purposes of—
 - (i) selling food or beverages for persons to consume off the premises, or
 - (ii) if the premises include hotel or motel accommodation, providing that accommodation including by providing food or beverages to persons using that accommodation to consume in their rooms,
 - (b) food and drink premises (other than pubs), except for the purposes of—
 - (i) selling food or beverages for persons to consume off the premises, or
 - (ii) if the premises are part of hotel or motel accommodation, providing food or beverages to persons using that accommodation to consume in their rooms, or
 - (iii) if the premises are part of a shopping centre, selling food or beverages for persons to consume outside of the shopping centre, or
 - (iv) for a wedding or funeral that complies with this Order,
 - (c) entertainment facilities,
Note. The streaming of a live performance would not be prohibited as the venue is not open to the public.
 - (d) amusement centres,
 - (e) micro-breweries or small distilleries holding a drink on-premises authorisation under the *Liquor Act 2007* or cellar door premises, except for the purposes of selling food or beverages for persons to consume off the premises,
 - (f) recreation facilities (indoor),
 - (g) places of public worship, except for the purposes of conducting the following—
 - (i) a wedding service occurring before the end of 20 December 2020,
 - (ii) a funeral service at which there are no more than 100 persons (including the person conducting the service),
 - (h) business premises that are spas, nail salons, beauty salons, waxing salons, tanning salons, tattoo parlours or massage parlours,
 - (i) business premises that are auction houses or betting agencies,
 - (j) markets, but not markets that predominantly sell food,
 - (k) information and education facilities,
 - (l) caravan parks and camping grounds, except for purposes of—
 - (i) accommodating permanent residents of the caravan park or camping ground or other persons who have no other place of permanent residence, and
 - (ii) allowing visitors to visit persons referred to in subparagraph (i),
 - (m) community facilities,
 - (n) sex services premises,
 - (o) sex on premises venues.
- (2) The Minister directs that the following must be closed to members of the public—
- (a) a public swimming pool,

- (b) a property (other than a retail shop) operated by the National Trust or the Historic Houses Trust,
 - (c) a gaming lounge,
 - (d) a strip club,
 - (e) any outdoor playground equipment in a public place,
 - (f) any outdoor gymnasium equipment in a public place,
 - (g) a skate park.
- (3) The Minister directs that a person must not do the following—
- (a) conduct an open inspection of premises for the purposes of the sale or lease of the premises but a person may show a single person the premises after the person has made an appointment for that purpose,
 - (b) conduct an auction at which persons attend in person.
- (4) Nothing in this clause prevents the use of premises—
- (a) to provide a service to assist vulnerable members of the public, for example a food bank or a service providing for the needs of homeless persons, or
 - (b) as an early education and care facility.
- (5) Subclause (1)(l) does not apply to a person who was staying at a caravan park or camping ground immediately before 5pm on 19 December 2020 and who is continuing to stay at the caravan park or camping ground under a booking—
- (a) that was made before that date, and
 - (b) that has not been extended after that date.
- (6) A word or expression used in this clause 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.

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.

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.

Community facility means a building or place (other than educational establishment, hospital, retail premises, place of public worship or residential accommodation)—

- (a) owned or controlled by a public authority or non-profit community organisation, and
- (b) used for the physical, social, cultural or intellectual development or welfare of the community.

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.

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 a restaurant or cafe, take away food and drink premises, a pub or a small bar.

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.

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

Part 5 Miscellaneous

11 Exemptions

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

12 Repeal of order

This Order is repealed at the end of 23 December 2020.

Schedule 1 Reasonable excuses

- 1** obtaining food or other goods or services for the personal needs of the household or other household purposes (including for pets) and for vulnerable persons
- 2** travelling for the purposes of work if the person cannot work from the person's place of residence
- 3** travelling for the purposes of attending childcare (including picking up or dropping another person at childcare)
- 4** travelling for the purposes of facilitating attendance at a school or other educational institution if the person attending the school or institution cannot learn from the person's place of residence
- 5** exercising
- 6** obtaining medical care or supplies or health supplies or fulfilling carer's responsibilities
- 7** attending a wedding or a funeral held in accordance with clause 9(3)(c) and (d) or 10(1)(g), even if the wedding or funeral is outside the Northern Beaches local government area
- 8** moving to a new place of residence (including a business moving to new premises) or between different places of residence of the person or inspecting a potential new place of residence
- 9** providing care or assistance (including personal care) to a vulnerable person or providing emergency assistance
- 10** donating blood
- 11** undertaking any legal obligations
- 12** accessing public services (whether provided by Government, a private provider or a non-Government organisation), including—
 - (a) social services, and
 - (b) employment services, and
 - (c) domestic violence services, and
 - (d) mental health services, and
 - (e) services provided to victims (including as victims of crime)
- 13** for children who do not live in the same household as their parents or siblings or one of their parents or siblings—continuing existing arrangements for access to, and contact between, parents and children or siblings
- 14** for a person who is a priest, minister of religion or member of a religious order—going to the person's place of worship or providing pastoral care to another person
- 15** avoiding injury or illness or to escape a risk of harm
- 16** for emergencies or compassionate reasons including where 2 persons are in a relationship but do not necessarily live together.

Schedule 2 Essential gatherings

- 1 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
- 2 a gathering at a hospital or other medical or health service facility that is necessary for the normal business of the facility
- 3 a gathering for the purposes of emergency services, including the provision of training by an emergency service
- 4 a gathering at a prison, correctional facility, youth justice centre or other place of custody
- 5 a gathering at a disability or aged care facility that is necessary for the normal business of the facility
- 6 a gathering at a court or tribunal
- 7 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
- 8 a gathering at a retail store (other than a supermarket, market that predominately sells food or grocery store) that is necessary for the normal business of the store
- 9 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
- 10 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
- 11 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
- 12 a gathering at an outdoor area for the purposes of transiting through the place
Example. The Corso at Manly
- 13 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
- 14 a gathering at premises that is necessary to provide the services of an early education and care facility