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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

under the

Public Health Act 2010

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.



New South Wales

Public Health (COVID-19 Maritime Quarantine) 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 repeal and remake the *Public Health (COVID-19 Maritime Quarantine) Order (No 2) 2020*, with minor amendments.

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Public Health (COVID-19 Maritime Quarantine) Order (No 3) 2020

under the

Public Health Act 2010

Part 1 Preliminary

1 Name of Order

This Order is the *Public Health (COVID-19 Maritime Quarantine) Order (No 3) 2020*.

2 Commencement

This Order commences at the beginning of 21 September 2020.

3 Definitions

In this Order—

Commissioner of Police—

- (a) means the Commissioner within the meaning of the *Police Act 1990*, and
- (b) includes a member of the NSW Police Force to whom the Commissioner has delegated functions under section 31 of that Act.

essential task includes the following—

- (a) loading or unloading cargo,
- (b) rigging gangways,
- (c) undertaking ship to shore activities,
- (d) connecting water or fuel to a vessel,
- (e) receiving or loading stores,
- (f) disposing of waste,
- (g) carrying out essential maintenance on a vessel,
- (h) carrying out safety checks and activities,
- (i) preparing a vessel for sailing,
- (j) being assessed or treated by a health practitioner, including being tested for COVID-19, as approved by an authorised medical practitioner within the meaning of section 60 of the Act.

quarantine facility has the same meaning as in the *Public Health (COVID-19 Air Transportation Quarantine) Order (No 2) 2020*.

relevant person—see clause 6(1).

the Act means the *Public Health Act 2010*.

vessel has the same meaning as in the *Ports and Maritime Administration Act 1995* but does not include a vessel owned and operated by the Commonwealth.

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

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

It is noted that 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.

5 Application of Order

- (1) This Order does not apply to, or in relation to, a vessel that arrives, or has arrived, in New South Wales on a voyage if—
 - (a) the voyage commenced from a port in Australia, and
 - (b) the vessel has not stopped at a port outside Australia on the voyage, and
 - (c) each person on board the vessel boarded the vessel at a port in Australia.

Note. A person who arrives in NSW by air to board a vessel must comply with quarantine requirements set out in the *Public Health (COVID-19 Air Transportation Quarantine) Order (No 2) 2020*.

- (2) To avoid doubt, this Order does not affect the operation of the *Public Health (COVID-19 Border Control) Order 2020*.

Note. The *Public Health (COVID-19 Border Control) Order 2020* imposes restrictions on persons travelling to New South Wales from Victoria.

Part 2 Quarantine

6 Directions—persons arriving in NSW on a vessel

- (1) The Minister directs that a person (a *relevant person*) who arrives in New South Wales on a vessel that comes from a port outside of New South Wales must not disembark from the vessel unless the person—
 - (a) is authorised to do so by the Commissioner of Police, or
 - (b) disembarks for the purposes of undertaking an essential task in accordance with clause 7 before re-boarding the vessel, or
 - (c) is required to do so because of an emergency.
- (2) The Minister directs that a relevant person who is authorised to disembark from a vessel under clause 6(1)(a) must do one of the following as directed by the Commissioner of Police—
 - (a) go directly to a quarantine facility specified by the Commissioner of Police,
 - (b) go directly to a hospital or other medical facility for treatment,
 - (c) go directly to an airport or another vessel in order to immediately leave New South Wales.
- (3) The Minister directs that a relevant person subject to a direction of the Commissioner of Police under subclause (2) must comply with a direction of the Commissioner in relation to the person's transit at the port or travel to the—
 - (a) quarantine facility, or
 - (b) hospital or other medical facility, or
 - (c) airport, or
 - (d) other vessel.
- (4) The Minister directs that a relevant person required to go to a quarantine facility or hospital or other medical facility under subclause (2) must remain at the facility or another facility as directed by the Commissioner of Police during the quarantine period unless—
 - (a) the Commissioner directs otherwise, or
 - (b) there is an emergency that requires the person to leave the facility.
- (5) The Minister directs that a relevant person who is subject to a direction of the Commissioner of Police to leave a quarantine facility or hospital or other medical facility under subclause (4)(a) must comply with a direction of the Commissioner in relation to the person—
 - (a) travelling to an airport from the facility, or
 - (b) waiting at an airport to leave New South Wales.
- (6) In this clause—

full day means a period of 24 hours commencing at 12.00 am and ending at 12.00 am on the following day.

quarantine period means, for a relevant person arriving in New South Wales, the period—
 - (a) starting when the person disembarks from the vessel on which the person arrived in New South Wales, and
 - (b) ending when the sooner of the following occurs—
 - (i) at least 14 full days have passed and, having regard to any testing carried out by or on behalf of NSW Health, the Chief Health Officer is

satisfied that the person does not pose a risk of infecting another person with COVID-19,

- (ii) 24 full days have passed.

7 Direction—persons disembarking from vessels to undertake essential tasks

- (1) The Minister directs that a relevant person who is authorised to disembark from a vessel under clause 6(1)(b) must—
- (a) remain within the relevant distance unless it is an emergency, and
 - (b) take reasonable steps to ensure the person is not exposed to COVID-19 and to minimise the risk of the spread of COVID-19 by wearing—
 - (i) gloves, and
 - (ii) a face mask, and
 - (iii) other suitable personal protective equipment, and
 - (c) return to the vessel immediately after completing the essential task, and
 - (d) comply with a direction of the Commissioner of Police in relation to disembarking the vessel, carrying out the essential task or returning to the vessel after completing the essential task.
- (2) In this clause—
- relevant distance** means—
- (a) the distance—
 - (i) from the vessel that is reasonably necessary for the carrying out of the essential task, and
 - (ii) that is no further than 13 metres from the wharf at which the vessel is docked, or
 - (b) a further distance permitted by the Commissioner of Police.

8 Direction—employer of persons disembarking from vessels

- (1) The Minister directs that the employer of a relevant person who disembarks from a vessel under clause 6 must—
- (a) arrange appropriate transportation for the person's travel under clause 6 to the—
 - (i) quarantine facility, or
 - (ii) hospital or other medical facility, or
 - (iii) airport, or
 - (iv) other vessel, and
 - (b) provide the person with a face mask, and
 - (c) take reasonable steps to ensure that the person wears a face mask while—
 - (i) travelling under clause 6, or
 - (ii) waiting at an airport to leave New South Wales.
- (2) In this clause—
- appropriate transportation** excludes any form of public transportation, including taxi services and passenger services within the meaning of the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016*.
- employer** of a relevant person means the person who employs or otherwise engages the relevant person to assist with the operation of the vessel.

Part 3 Other

9 Directions—COVID-19 safety plans

- (1) The Minister directs that a person who is the occupier of a wharf at which a vessel is docked must—
 - (a) develop and comply with a COVID-19 safety plan that addresses the matters required by the COVID-19 safety checklist for maritime operations, and
 - (b) keep a copy of the COVID-19 safety plan on, or in reasonable proximity to, the wharf, and
 - (c) make it available for inspection by an authorised officer or police officer as requested.
- (2) The Minister directs that the master of a vessel that is docked at a wharf must—
 - (a) develop and comply with a COVID-19 safety plan that addresses the matters required by the COVID-19 safety checklist for maritime operations, and
 - (b) keep a copy of the COVID-19 safety plan on the vessel, and
 - (c) make it available for inspection by an authorised officer or police officer as requested.
- (3) In this clause—

COVID-19 safety checklist for maritime operations means the COVID-19 safety checklist for maritime operations approved by the Chief Health Officer on 3 August 2020 and published on the New South Wales Government website (www.nsw.gov.au).

master has the same meaning as in the *Ports and Maritime Administration Act 1995*.

10 Directions—persons boarding and disembarking from vessels

- (1) The Minister directs that the following persons are the only persons authorised to board, and subsequently disembark from, a vessel on which there is a relevant person—
 - (a) a person required to board the vessel to assist the vessel to dock or depart,
 - (b) a person required to board the vessel to assist in refuelling or restocking the vessel,
 - (c) a person required to board the vessel to assist in loading or unloading cargo,
 - (d) a person required to board the vessel to exercise border security, customs or quarantine functions,
 - (e) a medical practitioner or other health practitioner required to board the vessel to provide medical treatment or testing to a person on board the vessel,
 - (f) a person involved in the enforcement of this Order,
 - (g) a person required to board the vessel in an emergency,
 - (h) a person required to board the vessel to repair or maintain the vessel,
 - (i) a person required to board the vessel in the person's capacity as a ship agent or ship classification surveyor,
 - (j) a member of staff of the operator of a terminal required to board the vessel to undertake ship to shore requirements,
 - (k) an Australian Maritime Safety Authority inspector,
 - (l) a person conducting an inspection for or on behalf of a regulator or a verification and audit body that is recognised by the shipping industry,
 - (m) a union official,

- (n) a cargo surveyor,
 - (o) a person exercising insurance functions.
- (2) The Minister directs that, despite subclause (1), a person is not authorised to board, or disembark from, a vessel if the Commissioner of Police directs in a particular case that the person should not board or disembark from the vessel.
- (3) The Minister directs that a person who boards a vessel under subclause (1) must take reasonable steps to ensure the person is not exposed to COVID-19.

11 Direction—advice provided by Chief Health Officer

The Minister directs that the Commissioner of Police must, in the exercise of a function under this Order, have regard to advice provided by the Chief Health Officer, or a delegate of the Chief Health Officer, for the purposes of this Order.

12 Exemption

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

13 Repeal and savings

- (1) The *Public Health (COVID-19 Maritime Quarantine) Order (No 2) 2020* (the **repealed Order**) is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the repealed Order, had effect under the repealed Order, continues to have effect under this Order.
- (3) Without limiting subclause (2), if, immediately before the commencement of this Order—
- (a) a person was the subject of a quarantine order under the repealed Order, the quarantine period continues under this Order as if the repealed Order remained in force, and
 - (b) a designation or direction made by the Commissioner of Police under the repealed Order was in force, the designation or direction continues as if it were made under this Order, and
 - (c) an exemption granted by the Minister under the repealed Order was in force, the exemption continues as if it were granted under this Order, and
 - (d) a delegation by the Minister or the Commissioner of Police under the repealed Order was in force, the delegation continues as if it were made for the purposes of this Order.

14 Repeal of Order

This Order is repealed at the beginning of 20 December 2020.