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New South Wales

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

under the

Public Health Act 2010

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

Dated 20th 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 that a person who arrives in New South Wales by aircraft and has been in Victoria or a country other than Australia within 14 days before the arrival must undertake mandatory quarantine for a period of at least 14 days. The Order makes a different direction for declared flight crew of aircraft allowing those persons to quarantine at their residence or accommodation before departing from New South Wales by aircraft.

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. Corporations that fail to comply with a direction are liable to a fine of \$55,000 and \$27,500 each day the offence continues.

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Public Health (COVID-19 Air Transportation 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 Air Transportation 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 means—

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

declared flight crew member—see clause 7.

employer of a flight crew member means a person who employs or otherwise engages the member to assist with the operation of an aircraft.

flight crew member includes a member of a positioning crew.

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

medical facility means a hospital or other medical facility.

NSW Health Air Transportation Guideline means the *NSW Health Air Transportation Guidelines*—

- (a) issued by the Chief Health Officer on 24 June 2020, and
- (b) published on the website of NSW Health.

Note. www.health.nsw.gov.au

quarantine facility means premises designated as a quarantine facility under clause 9.

quarantine period, for a person arriving in New South Wales, means the period—

- (a) starting when the person arrives 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 any other person with COVID-19,
 - (ii) 24 full days have passed.

relevant flight crew member means a flight crew member who—

- (a) arrives in New South Wales as a flight crew member, and
- (b) has, within 14 days immediately before the member's arrival, been in Victoria or a country other than Australia.

relevant person means—

- (a) a person who—
 - (i) arrives in New South Wales by aircraft, and
 - (ii) has, within 14 days immediately before the person's arrival, been in Victoria or a country other than Australia, or
- (b) a person who is asked to comply with clauses 5 and 6 of this Order by an enforcement officer under a direction by the Minister given under clause 8 of the *Public Health (COVID-19 Border Control) Order 2020*, or
- (c) a relevant flight crew member.

the Act means the *Public Health Act 2010*.

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

Note. Section 128 of the *Public Health Act 2010* provides for the delegation of the Chief Health Officer's functions.

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 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 NSW, as well as other Australian jurisdictions.

Part 2 Quarantine

5 Directions—persons arriving in NSW by aircraft, including flight crew members

- (1) The Minister directs that a relevant person must do one of the following as determined by the Commissioner of Police—
 - (a) go directly to a quarantine facility,
 - (b) go directly to a medical facility for treatment.
- (2) The Minister directs that a relevant person must comply with any determination of the Commissioner of Police in relation to the person's transit at the airport and travel to the quarantine facility or medical facility.
- (3) The directions under this clause do not apply to—
 - (a) a declared flight crew member, or
 - (b) a person who arrives in New South Wales under a current entry permit under the *Public Health (COVID-19 Border Control) Order 2020*, other than a permit mentioned in Schedule 1, item 1 or 8 of that Order.

6 Directions—entering, remaining and departing quarantine or medical facilities

- (1) The Minister directs that a relevant person, other than a relevant flight crew member, to whom a direction is given under clause 5 must remain at the quarantine facility or medical facility, or another quarantine facility or medical facility as directed by the Commissioner of Police, during the quarantine period.
- (2) The Minister directs that a relevant person who is a relevant flight crew member to whom a direction is given under clause 5 must remain at the quarantine facility or medical facility, or another quarantine facility or medical facility as directed by the Commissioner of Police, until the sooner of the following happens—
 - (a) the quarantine period ends,
 - (b) the person departs on another flight that leaves New South Wales.
- (3) Despite subsections (1) and (2), a relevant person is not required to remain at a quarantine facility or medical facility if—
 - (a) the Commissioner directs otherwise, or
 - (b) there is an emergency that requires the person to leave the quarantine facility or medical facility.
- (4) A relevant person must, while remaining at a quarantine facility or medical facility during the quarantine period, comply with any conditions decided, or directions given, by the Commissioner of Police.
- (5) A relevant person who is a relevant flight crew member must, while travelling to the airport or transiting at the airport for the purposes of departing on another flight that leaves New South Wales, comply with any directions given by the Commissioner of Police.
- (6) The Minister directs that the relevant flight crew member's employer must arrange appropriate transportation for the member for any travel under subclause (5).
- (7) A person must not enter a quarantine facility or a part of a medical facility being used to quarantine persons under this Order unless the person is a permitted person.
- (8) A person at a quarantine facility or a part of a medical facility being used to quarantine persons under this Order must not provide another person with access to the facility or the part of the facility unless the other person is a permitted person.
- (9) In this clause—

permitted person, in relation to entering or accessing a quarantine facility or a part of a medical facility being used to quarantine persons under this Order, means a person who is—

- (a) a police officer, or
- (b) entering or accessing at the direction of a police officer, or
- (c) entering or accessing for the purposes of providing medical treatment or care to a person in the quarantine facility or a part of the medical facility, or
- (d) entering or accessing because of an emergency, or
- (e) a person carrying out functions necessary for the ordinary operation of the quarantine facility or medical facility.

7 Directions—declared flight crew members

- (1) This clause applies to a relevant flight crew member (a **declared flight crew member**) to whom clause 5 would apply and who—
 - (a) has provided the following details to NSW Health before leaving the airport—
 - (i) the member's name and contact details, including a phone number or email address,
 - (ii) the address details of the member's residence or accommodation at which the member will stay until the quarantine period ends or until the member is able to depart on another flight that leaves New South Wales, and
 - (b) has provided a written declaration to a member of the NSW Health Service or a member of the Ministry of Health as to the following—
 - (i) the member has not, within 14 days immediately before the member's arrival, been in contact with a person with COVID-19,
 - (ii) the member does not have and has not had, within 72 hours immediately before the member's arrival, any symptoms of COVID-19.
Example. Examples of symptoms of COVID-19 include a fever, sore throat, cough, shortness of breath or loss of taste or smell.
- (2) The Minister directs that a declared flight crew member who provides information under this clause must ensure the information is true and accurate.
- (3) The Minister directs that a declared flight crew member must go directly to the member's residence or accommodation until the sooner of the following happens—
 - (a) the quarantine period ends,
 - (b) the member departs on another flight that leaves New South Wales.
- (4) The Minister directs that, while residing at the residence or accommodation under a direction under this Order, the member must do the following—
 - (a) not leave the residence or accommodation except—
 - (i) to undertake duties that are essential for safety or for other regulatory reasons including, for example, flight simulation training or safety or security training, or
 - (ii) for the purposes of obtaining medical care or medical supplies, or
 - (iii) in an emergency situation,
 - (b) not permit any other person to enter the residence or accommodation unless—
 - (i) the other person usually lives at the residence or accommodation or the other person is also complying with a direction under this Order, or
 - (ii) the entry is for medical or emergency purposes, or

(iii) the entry is to a place, other than a residence, for the purpose of delivering food or essential items,

(c) comply with the *NSW Health Air Transportation Guidelines*.

8 Direction—declared flight crew members' employers

The Minister directs that an employer of a declared flight crew member to whom a direction is given under clause 7 must—

- (a) if the member does not have a place of residence at which the member can stay until the quarantine period ends or until the member is able to depart on another flight that leaves New South Wales—arrange appropriate accommodation for the member, and
- (b) arrange appropriate transportation for the member for any travel under the clause to the member's residence or accommodation, and
- (c) if, before the quarantine period ends, the member is departing New South Wales on a flight, arrange appropriate transportation for the member for any travel under the clause to the airport, and
- (d) ensure the member complies with any requirements in the *NSW Health Air Transportation Guidelines* in relation to the member's transportation or accommodation under the clause.

9 Designation of premises as quarantine facility

The Commissioner of Police may designate, in writing, any premises or type of premises the Commissioner considers appropriate to be a quarantine facility for the purposes of this Order.

10 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 any advice provided by the Chief Health Officer or a delegate of the Chief Health Officer for the purposes of this Order.

Part 3 Miscellaneous

11 Exemption

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

12 Repeal and savings

- (1) The *Public Health (COVID-19 Air Transportation 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 made for the purposes of the repealed Order was in force, the delegation continues as if it were made for the purposes of this Order.

13 Repeal of Order

This Order is repealed at the beginning of 19 December 2020.