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New South Wales

Public Health (COVID-19 Interstate Travellers) Order (No 4) 2021

under the

Public Health Act 2010

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

Dated 27 October 2021.

BRAD HAZZARD, MP
Minister for Health and Medical Research

Explanatory note

The object of this Order is to remake, with minor amendments, the *Public Health (COVID-19 Interstate Travellers) Order (No 3) 2021*.

This Order—

- (a) enables the Chief Health Officer to identify places outside of New South Wales as affected areas, areas of concern or places of high concern, and
- (b) requires persons who—
 - (i) arrive in New South Wales from an affected area to complete a traveller self-declaration form to provide information, including contact information and information about where the person has been, and
 - (ii) arrive in New South Wales and who have been in an area of concern during the time specified in the notice identifying the area of concern to travel directly to the person's place of residence and remain there until cleared, unless the person has a reasonable excuse to leave the place of residence, and
 - (iii) are in New South Wales, or authorised to enter New South Wales, and who have been in a place of high concern during the time specified in the notice identifying the place of high concern to self-isolate, and
- (c) directs that persons who are not residents of New South Wales are not authorised to enter New South Wales if the person has been in a place of high concern during the time specified in the notice identifying the place of high concern.

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Public Health (COVID-19 Interstate Travellers) Order (No 4) 2021

under the

Public Health Act 2010

Part 1 Preliminary

1 Name of Order

This Order is the *Public Health (COVID-19 Interstate Travellers) Order (No 4) 2021*.

2 Commencement

This Order commences at 5:00pm on 27 October 2021.

3 Definitions

(1) In this Order—

affected area means a State or Territory or part of a State or Territory identified as an affected area in a COVID-19 concerns notice.

affected person means a person 16 years of age or over who, within the previous 14 days, has been in an area that is an affected area, whether or not it was identified as an affected area at the time.

area of concern means a State or Territory or part of a State or Territory identified as an area of concern in a COVID-19 concerns notice.

COVID-19 concerns notice means a notice under clause 5 as in force for the time being.

enforcement officer means any of the following—

- (a) a police officer,
- (b) a member of the NSW Health Service who is a member of a class approved by the Chief Health Officer for the purposes of this Order,
- (c) a member of the Public Service who is a member of a class approved by the Chief Health Officer for the purposes of this Order.

person's place of residence includes another place that is suitable for the person to reside in.

place of high concern means a place, a public transport route or a public transport line identified in a COVID-19 concerns notice under clause 5 as a place of high concern.

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 Act defines premises to include any land, temporary structure, vehicle or vessel.

residential aged care facility means a facility at which the following services are provided to a person in relation to whom a residential care subsidy or flexible care subsidy is payable under the *Aged Care Act 1997* of the Commonwealth—

- (a) accommodation,
- (b) personal care or nursing care.

the Act means the *Public Health Act 2010*.

traveller self-declaration means a declaration approved by the Chief Health Officer for the purposes of Part 2.

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

- (2) In this Order, a reference to a place of high concern may include a reference to a bus, a train or another public transport vehicle operating on a public transport route or line identified in a COVID-19 concerns notice under clause 5 as a place of high concern.
- (3) Notes included in this Order do not form part of this Order.

4 Grounds for concluding there is a risk to public health

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 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 recently been confirmed in New South Wales and other Australian jurisdictions, including by means of community transmission, and there is an ongoing risk of continuing introduction or transmission of the virus in New South Wales.

5 COVID-19 concerns notice

- (1) The Chief Health Officer may, by notice published on the website of NSW Health, identify—
 - (a) a State or Territory or part of a State or Territory as an affected area, or
 - (b) a State or Territory or part of a State or Territory as an area of concern, or
 - (c) a place outside New South Wales as a place of high concern, or
 - (d) a public transport route or line as a place of high concern if the route or line is at least partly outside New South Wales.

Note. The website of NSW Health is www.health.nsw.gov.au.

- (2) A COVID-19 concerns notice that identifies a public transport route or line as a place of high concern may also specify one or more buses, trains or other public transport vehicles operating on that line as a place of high concern.
- (3) A COVID-19 concerns notice may specify a time, including a time that is before publication of the notice, when—
 - (a) an area becomes an affected area, or
 - (b) an area becomes an area of concern, or
 - (c) a place or a public transport route or line becomes a place of high concern.
- (4) A COVID-19 concerns notice identifying an affected area may also specify the relevant points of entry to New South Wales for the affected area.
- (5) A COVID-19 concerns notice identifying a place of high concern is also to specify—
 - (a) whether the place is a close contact place and, if so, the times during which it is a close contact place, and

- (b) whether the place is a casual contact place and, if so, the times during which it is a casual contact place.

Note. A person in another jurisdiction who has been diagnosed with COVID-19 may be subject to restrictions on the person's movement into New South Wales, whether the person is coming from an affected area, an area of concern or a place of high concern. A person in New South Wales diagnosed with COVID-19 must comply with the *Public Health (COVID-19 Self-Isolation) Order (No 3) 2021*.

Part 2 Affected areas

6 Directions to complete traveller self-declaration

- (1) The Minister directs that an affected person must substantially complete a traveller self-declaration in the form approved by the Chief Health Officer.
- (2) The Minister directs that a person who completes a traveller self-declaration under this clause must ensure the information provided is true and accurate.
- (3) A traveller self-declaration may be completed—
 - (a) within the 24-hour period immediately before the person enters New South Wales, or
 - (b) on entering New South Wales.
- (4) An affected person must complete a new traveller self-declaration—
 - (a) if the COVID-19 concerns notice identifying the affected area lists relevant points of entry for the affected area—each time the person enters New South Wales at a relevant point of entry, or
 - (b) if the COVID-19 concerns notice identifying the affected area does not list relevant points of entry for the affected area—each time the person enters New South Wales.
- (5) Despite subclause (4), an affected person is not required to complete more than one traveller self-declaration on a calendar day.
- (6) Without limiting the form of a declaration, a declaration approved by the Chief Health Officer must require the affected person to provide the following information—
 - (a) the person's name,
 - (b) the person's email address and telephone number,
 - (c) each address at which the person stayed outside of New South Wales in the previous 14 days,
 - (d) the address or addresses where the person will be staying in New South Wales,
 - (e) whether the person has been in—
 - (i) an area of concern, or
 - (ii) a place of high concern,
 - (f) the number of dependent children under the age of 16 years travelling with the person,
 - (g) the person's date of arrival, or planned date of arrival, in New South Wales,
 - (h) if the person is not ordinarily resident in New South Wales, the person's planned date of departure from New South Wales.

7 Directions about providing information

- (1) The Minister directs an affected person must carry evidence of completion of a traveller self-declaration.
- (2) The Minister directs a person must, if required to do so by an enforcement officer, provide information, including photo identification, to allow a decision to be made about—
 - (a) whether the person is an affected person, and
 - (b) whether the person has completed a traveller self-declaration.

- (3) An enforcement officer may require information under subclause (2) only if the enforcement officer suspects on reasonable grounds that the person may be an affected person.
- (4) The Minister directs that a person who provides information in response to a requirement under this clause must ensure the information is true and accurate.
- (5) A person provides sufficient information in response to a requirement under this clause about whether the person is an affected person if the person produces photographic identification to verify the person's name and address.

8 Direction to provide self-declaration information to enforcement officer

If an affected person is, when directed by an enforcement officer, unable to produce evidence of completion of a traveller self-declaration, the Minister directs that the affected person must provide true and accurate information to the enforcement officer to enable the declaration to be completed on the affected person's behalf.

Part 3 Areas of concern

9 Definition

In this Part—

relevant person means a person who has been in an area of concern—

- (a) within the last 14 days, and
- (b) after the date specified in a COVID-19 concerns notice that identifies the area as an area of concern, following which a person must comply with the Minister's direction under clause 10.

Note. A relevant person who has, during the last 14 days, been in a place of high concern is subject to directions under Part 4 of this Order.

10 Directions of Minister concerning relevant persons

- (1) The Minister directs that a relevant person who enters New South Wales must, immediately after entering, travel directly to the person's place of residence.
- (2) If a relevant person is already in New South Wales, the Minister directs that the relevant person must, immediately, travel directly to the person's place of residence.
- (3) The Minister directs that a relevant person must not, without reasonable excuse, be away from the person's place of residence.
- (4) This clause does not apply to a person who is homeless.

11 Reasonable excuses

- (1) For the purposes of clause 10, a reasonable excuse includes doing an activity specified in Schedule 1.
- (2) In addition, if a person is staying in temporary accommodation, 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—
 - (i) goes directly to the person's place of residence including other temporary accommodation, or
 - (ii) travels immediately by the most practicable direct route to a place outside New South Wales, and
 - (c) if paragraph (b)(i) applies—the person continues to comply with clause 10.
- (3) Taking a holiday is not a reasonable excuse.
- (4) In this clause—

temporary accommodation includes hotel or motel accommodation or a short-term holiday rental.

12 Directions about providing information

- (1) The Minister directs a person must, if required to do so by an enforcement officer, provide information, including photo identification, to allow a decision to be made about whether the person is a relevant person.
- (2) An enforcement officer may require information under subclause (1) only if the enforcement officer suspects on reasonable grounds that the person may be a relevant person.
- (3) The Minister directs that a person who provides information in response to a requirement under this clause must ensure the information is true and accurate.

- (4) A person provides sufficient information in response to a requirement under this clause about whether the person is a relevant person if the person produces photographic identification to verify the person's name and address.

13 Application of directions to persons transiting through New South Wales

This Part does not apply to a person who enters, or has entered, New South Wales for immediate travel by the most direct practicable route to a place outside New South Wales.

Part 4 Places of high concern

14 Definitions

In this Part—

casual contact means a person who has been in a place of high concern during—

- (a) the last 14 days, and
- (b) the time specified in the COVID-19 concerns notice identifying the place as a casual contact place.

close contact means a person who has been in a place of high concern during—

- (a) the last 14 days, and
- (b) the time specified in the COVID-19 concerns notice identifying the place as a close contact place (the **close contact time period**).

COVID-19 vaccine has the same meaning as in the *Public Health (COVID-19 General) Order 2021*.

fully vaccinated person means a person who—

- (a) is a close contact, and
- (b) has had 2 doses of a COVID-19 vaccine at least 14 days before the close contact time period.

Interstate Traveller Guidelines means the Interstate Traveller Guidelines published on the website of NSW Health, as in force from time to time.

Note. The website of NSW Health is www.health.nsw.gov.au.

self-isolate means self-isolate in accordance with clause 19.

15 Direction to close contact outside New South Wales who is not a resident

- (1) This clause applies to a person who—
 - (a) is not a resident of New South Wales, and
 - (b) is a close contact.
- (2) However, this clause does not apply if—
 - (a) the person is a fully vaccinated person, and
 - (b) more than 7 days have passed since the person was in a place of high concern.
- (3) The Minister directs that a person to whom this clause applies must not enter New South Wales.

Note. A person who enters New South Wales in contravention of subclause (2) may be required to self-isolate as required by the public health order about self-isolation.

16 Directions to casual contact outside New South Wales who is not a resident

- (1) This clause applies to a person who—
 - (a) is not a resident of New South Wales, and
 - (b) is a casual contact.
- (2) The Minister directs that a person to whom this clause applies must not enter New South Wales unless, after becoming a casual contact, the person is tested for COVID-19 with a negative result.
- (3) The Minister directs that a person to whom this clause applies who enters New South Wales after being tested for COVID-19 with a negative result must keep and, if required to do so by an enforcement officer, show a copy of the test result.

Note. A person who enters New South Wales in contravention of subclause (2) may be required to self-isolate as required by the public health order about self-isolation.

17 Direction to close contact in New South Wales

- (1) This clause applies to a person who—
 - (a) is in New South Wales, and
 - (b) is a close contact.
- (2) However, this clause does not apply if—
 - (a) the person is a fully vaccinated person, and
 - (b) more than 7 days have passed since the person was in a place of high concern.
- (3) The Minister directs that a person to whom this clause applies must—
 - (a) travel directly to the person's place of residence and, while travelling, comply with the Interstate Traveller Guidelines, and
 - (b) self-isolate.

18 Directions to casual contact in New South Wales

- (1) This clause applies to a person who—
 - (a) is in New South Wales, and
 - (b) is a casual contact.
- (2) The Minister directs that a person to whom this clause applies—
 - (a) must travel directly to the person's place of residence and, while travelling, comply with the Interstate Traveller Guidelines, and
 - (b) must self-isolate unless the person is tested for COVID-19 with a negative result.
- (3) The Minister directs that a person to whom this clause applies who had ceased to self-isolate after being tested for COVID-19 with a negative result must keep and, if required to do so by an enforcement officer, show a copy of the test result.

19 Self-isolation

A person who is required to self-isolate must do the following—

- (a) travel directly to the person's place of residence,
- (b) not leave the residence except—
 - (i) for the purposes of obtaining medical care, including a test for COVID-19, or medical supplies, or
 - (ii) in another emergency situation,
- (c) not permit another person to enter the residence unless—
 - (i) the other person usually lives at the residence 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 purposes of delivering food or essential items,
- (d) otherwise comply with the *NSW Health COVID-19 self-isolation guideline* issued by the Chief Health Officer from time to time and published on the website of NSW Health.

20 Direction to person transiting through New South Wales

- (1) This Part does not apply to a person who enters New South Wales for immediate travel by the most direct practicable route to the Australian Capital Territory.

- (2) A person travelling to the Australian Capital Territory under this clause must, while in New South Wales, comply with the Interstate Traveller Guidelines.

Part 5 Contact tracing

21 Direction about providing information to contact tracers

- (1) This clause applies to the following persons—
 - (a) an affected person,
 - (b) a relevant person, as defined in clause 9,
 - (c) a casual contact, as defined in clause 14,
 - (d) a close contact, as defined in clause 14.
- (2) The Minister directs that a person to whom this clause applies who is contacted by a person undertaking contact tracing functions for NSW Health must provide true, accurate and complete information to the person undertaking contact tracing functions.

Part 6 Miscellaneous

22 Relationship of Order to related Public Health Orders

- (1) To avoid doubt, nothing in this Order affects an obligation an affected person has to comply with a direction applicable to the person under a related Public Health Order, including in relation to isolation.
- (2) In this clause—
related Public Health Order means each of the following orders made under the Act, section 7 as in force from time to time—
 - (a) the *Public Health (COVID-19 Air Transportation Quarantine) Order (No 3) 2021*,
 - (b) the *Public Health (COVID-19 General) Order 2021*,
 - (c) the *Public Health (COVID-19 Maritime Quarantine) Order (No 3) 2021*,
 - (d) the *Public Health (COVID-19 Self-Isolation) Order (No 3) 2021*,
 - (e) an order that remakes, replaces or consolidates, whether in whole or in part, an order or orders mentioned above.

23 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.

24 Repeal and savings

- (1) The *Public Health (COVID-19 Interstate Travellers) Order (No 3) 2021* (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)—
 - (a) a COVID-19 concerns notice published under the repealed Order continues to have effect as if it were published under this Order, and
 - (b) a direction given by the repealed Order continues to have effect under this Order, and
 - (c) a delegation made for the purposes of the repealed Order continues to have effect as if it were made for the purposes of this Order, and
 - (d) an exemption from a provision of the repealed Order continues to have effect under this Order as an exemption from the equivalent provision of this Order.

Schedule 1 Reasonable excuses

clause 11(1)

- 1 Obtaining food or other goods or services for the personal needs of the person's household or for other household purposes, including for vulnerable persons or pets.
- 2 For the purposes of work if the person cannot work from the person's place of residence.
Note. Travelling for work may also be subject to additional restrictions under the *Public Health (COVID-19 General) Order 2021*.
- 3 For the purposes of attending childcare, including picking up or dropping another person at childcare.
- 4 For the purpose of attending school, university or another educational institution if the person attending the school, university or institution cannot learn from the person's place of residence.
- 5 Undertaking exercise or outdoor recreation—
 - (a) alone, or
 - (b) with members of the person's household, or
 - (c) with one other person.**Note.** Outdoor exercise or recreation in certain areas of the State may be also be subject to further restrictions under the *Public Health (COVID-19 General) Order 2021*.
- 6 Obtaining medical care or supplies or health supplies or fulfilling carer's responsibilities, including obtaining a COVID-19 vaccination.
- 7 Moving to a new place of residence, including a business moving to new premises.
- 8 Providing care or assistance, including personal care, to a vulnerable person or providing emergency assistance, but not including visiting a residential aged care facility.
- 9 Undertaking legal obligations.
- 10 Accessing public services, whether provided by the 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.
- 11 For children who do not live in the same household as their parents or siblings or one of their parents or siblings—giving effect to new or existing arrangements for access to, and contact between, parents and children or siblings.
- 12 Avoiding injury or illness or to escape a risk of harm.
- 13 For emergencies or compassionate reasons, including where 2 persons are in a relationship but do not necessarily live together.
- 14 For the purposes of feeding an animal or for animal welfare.