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New South Wales

Public Health (COVID-19 Gatherings) Order (No 3) 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 26 March 2020.

BRAD HAZZARD, MP
Minister for Health and Medical Research

Explanatory note

The object of this Order is to give certain Ministerial directions to deal with the public health risk of COVID-19 and its possible consequences.

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 Gatherings) 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 Gathering) Order (No 3) 2020*.

2 Definitions

(1) In this Order:

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.

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

3 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 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.

Part 2 Mass gatherings

4 Definitions

In this Part—

indoor space means an area, room or other premises that is or are substantially enclosed by a roof and walls, regardless of whether the roof or walls or any part of the roof or walls are—

- (a) permanent or temporary, or
- (b) open or closed.

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

mass gathering—

- (a) means a gathering—
 - (i) of 500 or more persons in a single undivided outdoor space at the same time, or
 - (ii) of 100 or more persons in a single undivided indoor space at the same time, but
- (b) does not include—
 - (i) an essential gathering referred to in Schedule 1, or
 - (ii) a gathering exempted, in writing, by the Minister and subject to any conditions the Minister considers necessary.

outdoor space means a space that is not an indoor space.

relevant period means the period—

- (a) starting when this Order commences, and
Note. This Order commences when signed by the Minister.
- (b) ending at midnight on 23 June 2020.

5 Direction of the Minister

- (1) The Minister directs that a person must not, during the relevant period—
 - (a) if the person is the occupier or operator of premises in New South Wales—
 - (i) allow a mass gathering to occur on the premises, or
 - (ii) allow another gathering to occur on the premises unless the size of the premises is sufficient to ensure there is 4 square metres of space for each person on the premises, or

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.
 - (b) organise a mass gathering on premises in New South Wales, or
 - (c) attend a mass gathering on premises in New South Wales.
- (2) Subclause(1)(a)(ii) does not apply to a gathering—
 - (a) referred to in Schedule 1 other than item 10, or
 - (b) at a person's place of residence.

Part 3 Places of social gathering

6 Directions of the Minister

- (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,
 - (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) casinos, except for the purposes of, 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,
 - (f) 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,
 - (g) recreation facilities (indoor),
 - (h) places of public worship, except for the purposes of conducting the following—
 - (i) a wedding service at which there are no more than 5 persons (including the person conducting the service),
 - (ii) a funeral service at which there are no more than 10 persons (including the person conducting the service),
 - (i) business premises that are spas, nail salons, beauty salons, waxing salons, tanning salons, tattoo parlours or massage parlours,
 - (j) business premises that are auction houses or betting agencies,
 - (k) markets, but not markets that predominantly sell food,
 - (l) information and education facilities,
 - (m) 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),
 - (n) community facilities,
 - (o) sex services premises.

- (2) To avoid doubt, 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.
- (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 party the premises after the party has made an appointment for that purpose,
 - (b) conduct an auction at which persons attend in person (except a livestock auction conducted outside for food supply purposes),
 - (c) conduct or participate in a fitness class (including personal training or a boot camp) unless it is conducted outside and there are no more than 10 persons participating (including the person conducting the class),
 - (d) participate in a social sporting activity unless it takes place outside and there are no more than 10 persons participating in the activity.
- (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 people, or
 - (b) as an early education and care facility.
- (5) The Minister may grant an exemption to this clause in writing and subject to the conditions that the Minister considers appropriate.
- (6) Subclause (1)(m) does not apply to a person who was staying at a caravan park or camping ground immediately before 26 March 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.
- (7) 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 4 Exchange of information

7 Direction of the Minister

- (1) The Minister directs that a government sector agency within the meaning of the *Government Sector Employment Act 2013* is authorised to collect information from, or disclose information to another government sector agency (whether in New South Wales or another Australian jurisdiction) 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—
information includes personal information or health information.

Part 5 Repeal

8 Repeal of Order

The *Public Health (COVID-19 Gatherings) Order (No 2) 2020* is repealed.

Schedule 1 Essential 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 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
- 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, food market, grocery store or shopping centre (but not a retail store in a shopping centre other than a supermarket, food market or grocery store) that is necessary for the normal business of the supermarket, market, store or centre
- 10 a gathering at a retail store that is necessary for the normal business of the store
- 11 a gathering at an office building, farm, factory or mining or construction site that is necessary for the normal operation of the building, farm, factory or site
- 12 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
- 13 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
- 14 a gathering at an outdoor space where 500 or more persons may be present for the purposes of transiting through the place
Example. Pitt Street Mall

(Reference number:(n2020-859)