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New South Wales

# Public Health (COVID-19 Air Transportation Quarantine) Order (No 2) Amendment (Transportation Providers) Order 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 25 June 2021.

BRAD HAZZARD, MP  
Minister for Health and Medical Research

## Explanatory note

The object of this Order is to amend the *Public Health (COVID-19 Air Transportation Quarantine) Order (No 2) 2021* to—

- (a) provide that an employer of certain flight crew members must arrange for a transportation service, approved under this Order, to provide the transport for the flight crew members to and from the flight crew members' residences, and
- (b) require certain persons entering, remaining at, departing or transporting others from quarantine facilities to wear a fitted face mask, subject to particular exemptions and circumstances, and
- (c) require a person who provides an approved transportation service to comply with the NSW Health Air Transportation Guidelines, and
- (d) require a person who employs persons providing certain transportation services to give the names and contact details of those persons to the Commissioner of Police, and
- (e) extend the requirements for COVID-19 testing in relation to designated transport providers to persons providing an approved transportation service to certain flight crew members' residences, and
- (f) require the employers of designated quarantine facility workers, designated airport workers and persons who provide a transportation service to a relevant person under this Order—
  - (i) not to permit the workers to exercise functions or provide services required for their work unless the workers have been tested for COVID-19, and
  - (ii) to notify the Chief Health Officer if the employer becomes aware a worker has not been tested, and
- (g) require certain workers to only enter the workplace or provide services if those workers have received at least the first dose of a COVID-19 vaccine, and

- (h) require a person who employs certain workers to ensure the workers comply with the requirement that the worker must have received at least the first dose of a COVID-19 vaccine to enter the workplace or provide services, and
- (i) require particular persons (*relevant persons*) and a person transporting, or in or on a vehicle with, a relevant person, to wear a fitted face covering over the person's nose and mouth at all times when the relevant person is being transported, subject to particular exemptions and circumstances, and
- (j) require a person who provides a transportation service to certain persons to—
  - (i) comply with a direction of the Commissioner of Police at an airport or at a quarantine facility, and
  - (ii) if requested by a police officer, provide the person's name and contact details, and
- (k) require a person who employs a person who provides a transportation service to certain persons to, if requested by a police officer, provide the person who provides the transportation service's name and contact details.

## **Public Health (COVID-19 Air Transportation Quarantine) Order (No 2) Amendment (Transportation Providers) Order 2021**

under the

Public Health Act 2010

### **1 Name of Order**

This Order is the *Public Health (COVID-19 Air Transportation Quarantine) Order (No 2) Amendment (Transportation Providers) Order 2021*.

### **2 Commencement**

- (1) Subject to subclause (2), this Order commences on 25 June 2021 at 4pm.
- (2) Schedule 1[6], to the extent it inserts Part 3B, commences on 28 June 2021 at midday.

## **Schedule 1      Amendment of Public Health (COVID-19 Air Transportation Quarantine) Order (No 2) 2021**

**[1]    Clauses 10(7) and 15(a) and (b)**

Omit “appropriate transportation” wherever occurring.

Insert instead “approved transportation”.

**[2]    Clause 10A**

Insert after clause 10—

**10A    Directions—wearing of fitted face coverings**

- (1) The Minister directs that a person entering, remaining at or departing a quarantine facility who is a quarantined person must wear a fitted face covering over the person’s nose and mouth at all times—
  - (a) when the person is being transported to or from the quarantine facility, and
  - (b) when the person is remaining at the quarantine facility, other than when the person is in the room assigned to the person at the facility.
- (2) The Minister directs that a person who enters or remains at a quarantine facility, other than a person specified in subclause (1), must wear a fitted face covering over the person’s nose and mouth at all times when the person is at the quarantine facility.
- (3) The Minister directs that a person transporting, or in or on a vehicle with, a person specified in subclause (1) must wear a fitted face covering over the person’s nose and mouth at all times when the person specified in subclause (1) is being transported.
- (4) Subclauses (1)–(3) do not apply to the following persons—
  - (a) a person aged 12 years or under,
  - (b) a person with a physical or mental health illness or condition, or disability, that makes wearing a fitted face covering unsuitable including, for example, a skin condition, an intellectual disability, autism or trauma.
- (5) Despite subclauses (1)–(3), a person may remove a fitted face covering the person is otherwise required to wear in the following circumstances—
  - (a) the person is eating or drinking,
  - (b) the person is communicating with another person who is deaf or hard of hearing,
  - (c) the person is asked to remove the fitted face covering to ascertain the person’s identity,
  - (d) because of an emergency.
- (6) Despite subclause (2), a person may remove a fitted face covering the person is otherwise required to wear in the following circumstances—
  - (a) the person is at work and the nature of the person’s work—
    - (i) makes the wearing of a fitted face covering a risk to the person’s, or another person’s, health and safety, or
    - (ii) means clear enunciation or visibility of the person’s mouth is essential,

- (b) the removal of the fitted face covering is necessary for the proper provision of the goods or service.
- (7) The Minister directs that a person who removes the person's fitted face covering under subclause (5) or (6) must resume wearing the fitted face covering as soon as practicable after the circumstance ends.
- (8) In this clause—  
***fitted face covering*** means a mask or other covering that—
  - (a) fits securely around the face, and
  - (b) is designed or made to be worn over the nose and mouth to provide the wearer with protection against infection.

**[3] Clause 12 Directions—testing of designated transportation providers**

Omit clause 12(1)(a). Insert instead—

- (a) who, in the course of the person's employment, provides a transportation service—
  - (i) to a relevant person directly to, or directly from, a quarantine facility or a medical facility, or
  - (ii) to a person who is a declared flight crew member to or from the member's residence, and

**[4] Clause 12(5)**

Insert after clause 12(4)—

- (5) Subclause (2) does not apply to—
  - (a) a declared flight crew member who uses approved personal transportation, or
  - (b) a designated transportation provider providing a declared flight crew member with transportation to or from the member's residence for the purposes of obtaining urgent medical care or medical supplies.

**[5] Clause 13A**

Insert after clause 13—

**13A Directions—person who employs particular workers and service providers**

- (1) The Minister directs that a person who employs a designated quarantine facility worker—
  - (a) must not permit the worker, in the course of the worker's employment, to exercise functions or provide services in relation to a quarantine facility unless the worker is tested for COVID-19 as required under clause 11, and
  - (b) if the person is aware the worker has not been tested as required under clause 11—must notify the Chief Health Officer that the worker has not been tested.
- (2) The Minister directs that a person who employs a designated transportation provider—
  - (a) must not permit the provider, in the course of the provider's employment, to exercise functions or provide transportation services unless the provider is tested for COVID-19 as required under clause 12, and

- (b) if the person is aware the provider has not been tested as required under clause 12—must notify the Chief Health Officer that the provider has not been tested.
- (3) The Minister directs that a person who employs a designated airport worker—
  - (a) must not permit the worker, in the course of the worker’s employment, to exercise functions or provide services at an airport unless the worker is tested for COVID-19 as required under clause 13, and
  - (b) if the person is aware the worker has not been tested as required under clause 13—must notify the Chief Health Officer that the worker has not been tested.

**[6] Parts 3A and 3B**

Insert after Part 3—

**Part 3A            Transportation**

**20A    Directions—designated transportation providers**

- (1) The Minister directs that the following persons (each a *transportation provider*) must comply with the NSW Health Air Transportation Guidelines—
  - (a) a person who provides a transportation service to a relevant person under this Order,
  - (b) a declared flight crew member who uses approved personal transportation.
- (2) The Minister directs that a person who employs a transportation provider must ensure the provider complies with the NSW Health Air Transportation Guidelines.

**20B    Directions—transportation of particular persons**

- (1) The Minister directs that a relevant person, and a person transporting, or in or on a vehicle with, a relevant person, must wear a fitted face covering over the person’s nose and mouth at all times when the relevant person is being transported.
- (2) To avoid doubt, this direction applies to the transportation of a relevant person, whether or not the relevant person is being transported to or from—
  - (a) an airport, a quarantine facility or a medical facility, or
  - (b) for a relevant person who is a relevant flight crew member—to the crew member’s residence.
- (3) Subclause (1) does not apply to the following persons—
  - (a) a person aged 12 years or under,
  - (b) a person with a physical or mental health illness or condition, or disability, that makes wearing a fitted face covering unsuitable including, for example, a skin condition, an intellectual disability, autism or trauma.
- (4) Despite subclause (1), a person may remove a fitted face covering the person is otherwise required to wear in the following circumstances—
  - (a) the person is eating or drinking,
  - (b) the person is communicating with another person who is deaf or hard of hearing,

- (c) the person is asked to remove the fitted face covering to ascertain the person's identity,
  - (d) because of an emergency.
- (5) The Minister directs that a person who removes the person's fitted face covering under subclause (4) must resume wearing the fitted face covering as soon as practicable after the circumstance ends.
- (6) In this clause—  
***fitted face covering*** means a mask or other covering that—
- (a) fits securely around the face, and
  - (b) is designed or made to be worn over the nose and mouth to provide the wearer with protection against infection.

**20C Directions—directions of the Commissioner of Police**

- (1) The Minister directs that a person who provides a transportation service to a relevant person under this Order must—
- (a) comply with a direction of the Commissioner of Police at an airport or at a quarantine facility, and
  - (b) if requested by a police officer, provide the person's name and contact details.
- (2) The Minister directs that a person who employs a person who provides a transportation service to a relevant person under this Order must, if requested by a police officer, provide the name and contact details of the person who provides the transportation service.

**20D Direction—name and contact details of certain transportation service providers**

- (1) The Minister directs that a person who employs a flight crew transport service provider is required to notify the Commissioner of Police—
- (a) within 48 hours after the commencement, of the names and contact details of each flight crew transport service provider employed by the person immediately before the commencement, and
  - (b) for a person who will commence employment as a flight crew transport service provider after the commencement—of the name and contact details of the person, at least 48 hours before the person commences employment.
- (2) In this clause—  
***commencement*** means the commencement of this clause.

**Part 3B COVID-19 vaccinations**

**20E Directions—COVID-19 vaccination**

- (1) This clause applies to a ***nominated worker***, being a person specified in the NSW Airport and Quarantine Workers Vaccination Program as a person or a member of a class of persons to whom this clause applies and—
- (a) who—
    - (i) is a permitted person within the meaning of clause 10(10), definition of ***permitted person***, paragraph (a), (c) or (f) in relation to a quarantine facility, and
    - (ii) in the course of the person's employment, exercises functions or

- provides services in relation to the quarantine facility, or
- (b) who, in the course of the person's employment, provides a transportation service to a relevant person directly to, or directly from, a quarantine facility or a medical facility, or
  - (c) who, in the course of the person's employment, exercises functions or provides services at an airport.
- (2) The Minister directs that a nominated worker must not, in the course of the worker's employment, do any of the following, unless the person has received at least the first dose of a COVID-19 vaccine—
- (a) for a nominated worker specified in subclause (1)(a)—enter, or provide services at, a quarantine facility,
  - (b) for a nominated worker specified in subclause (1)(b)—provide the transportation service to a relevant person, including to or from an airport, quarantine facility, medical facility or to a crew member's residence,
  - (c) for a nominated worker specified in clause (1)(c)—enter, or provide services at, an airport.
- (3) Subclause (2) does not apply if—
- (a) a medical practitioner and the Chief Health Officer have certified that the nominated worker has a medical contraindication to the COVID-19 vaccine, or
  - (b) a nominated worker specified in clause (1)(b) is providing a declared flight crew member with a transportation service to or from the member's residence for the purpose of obtaining urgent medical care or medical supplies.
- (4) The Minister directs that a person who employs a nominated worker must ensure that the worker complies with subclause (2).
- (5) In this clause—
- NSW Airport and Quarantine Workers Vaccination Program*** means the document entitled Airport and Quarantine Workers Vaccination Program approved by the Chief Health Officer and published on the website of NSW Health, as in force for the time being.

#### [7] Schedule 1 Dictionary

Insert in alphabetical order—

***approved personal transportation***, of a declared flight crew member, means the use of a private vehicle that the declared flight crew member drives or rides to or from their residence, with no passengers.

***approved transportation*** means—

- (a) a transportation service provided by or on behalf of the Australian Defence Force, or
- (b) a transportation service by a flight crew transport service provider whose details have been notified to the Commissioner of Police under clause 20D, or
- (c) approved personal transportation of a declared flight crew member.

***designated airport worker***—see clause 13(1).

***designated quarantine facility worker***—see clause 11(1).

***designated transportation provider***—see clause 12(1).

*employ* includes engage a person as a contractor or subcontractor.

*flight crew transport service provider* means a person who provides a transportation service to a declared flight crew member.