



Government Gazette

of the State of

New South Wales

Number 449–Health and Education

Friday, 10 September 2021

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New South Wales

Public Health (COVID-19 Additional Restrictions for Delta Outbreak) Order (No 2) Amendment (No 7) 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 10 September 2021.

BRAD HAZZARD, MP
Minister for Health and Medical Research

Explanatory note

The objects of this Order are—

- (a) to repeal the *Public Health (COVID-19 Mandatory Face Coverings) Order (No 3) 2021* and move certain provisions into the *Public Health (COVID-19 Additional Restrictions for Delta Outbreak) Order (No 2) 2021*, and
- (b) to allow persons who have had 2 doses of a COVID-19 vaccine to undertake additional activities in stay at home areas and areas of concern, and
- (c) to modify the requirements for the general area in relation to the following—
 - (i) the closure of certain premises,
 - (ii) the maximum number of person permitted at premises,
 - (iii) dancing at certain premises,
 - (iv) requiring persons to be seated in certain circumstances, and
- (d) to reclassify certain parts of regional NSW from stay at home area to the general area.

Public Health (COVID-19 Additional Restrictions for Delta Outbreak) Order (No 2) Amendment (No 7) Order 2021

under the

Public Health Act 2010

1 Name of Order

This Order is the *Public Health (COVID-19 Additional Restrictions for Delta Outbreak) Order (No 2) Amendment (No 7) Order 2021*.

2 Commencement

This Order commences—

- (a) for Schedule 1[20] and [34]—at the beginning of 13 September 2021, or
- (b) otherwise—at the beginning of 11 September 2021.

3 Repeal of Public Health (COVID-19 Mandatory Face Coverings) Order (No 3) 2021

The *Public Health (COVID-19 Mandatory Face Coverings) Order (No 3) 2021* is repealed.

Schedule 1 Amendment of Public Health (COVID-19 Additional Restrictions for Delta Outbreak) Order (No 2) 2021

[1] Part 2, Division 1A

Insert after Division 1—

Division 1A Closure of premises

2.1A Premises that must not be open

The following premises in the general area must not be open to the public—

- (a) amusement centres,
- (b) nightclubs,
- (c) sex services premises,
- (d) sex on premises venues,
- (e) strip clubs.

[2] Clause 2.2 Maximum number of persons—generally

Omit clause 2.2(1). Insert instead—

- (1) An occupier of premises in the general area must not allow more persons on the premises than the number of persons equal to—
 - (a) for the parts of the premises that are indoor areas—1 person per 4 square metres of space, and
 - (b) for the parts of the premises that are outdoor areas—1 person per 2 square metres of space.

[3] Clause 2.2(2)(c1) and (c2)

Insert after clause 2.2(2)(c)—

- (c1) business premises that are hairdressers, spas, nail salons, beauty salons, waxing salons, tanning salons, tattoo parlours or massage parlours,
Note— See clause 2.6A.
- (c2) premises at which a significant event is being held,
Note— See clause 2.6B.

[4] Clause 2.4 Maximum number of persons—places of residence

Insert after clause 2.4(3)—

- (3A) A person who is 12 years of age or under is not to be counted as a visitor.

[5] Clause 2.5 Maximum number of persons—entertainment facilities or recreation facilities (major)

Omit “50%” from clause 2.5(1)(a). Insert instead “75%”.

[6] Clause 2.5(2)

Omit “greater of the following”. Insert instead “the lesser of the following”.

[7] Clause 2.5(2)(a) and (b)

Omit the paragraphs. Insert instead—

- (a) 1 person per 4 square metres of space in the premises,
- (b) 5,000 persons.

[8] Clause 2.5(3)

Omit “Subclauses (1)(a) and (2)(a)”. Insert instead “Subclause (1)(a)”.

[9] Clause 2.5(4)

Insert after clause 2.5(3)—

- (4) In this clause—
recreation facility (major) includes premises that is a zoo or an aquarium.

[10] Clauses 2.6A–2.6C

Insert after clause 2.6—

2.6A Maximum number of persons—business premises for personal services

The occupier of business premises in the general area that is a hairdressers, spa, nail salon, beauty salon, waxing salon, tanning salon, tattoo parlour or massage parlour must not allow more persons on the premises than the number of persons equal to the lesser of—

- (a) 1 person per 4 square metres of space in the premises,
- (b) 5 persons.

2.6B Maximum number of persons—significant events

- (1) The occupier of premises in the general area at which a significant event is being held must not allow more persons on the premises than the number of persons equal to the lesser of—
 - (a) 1 person per 4 square metres of space in the premises,
 - (b) 50 persons.
- (2) A person must not attend a significant event at which there are more persons on the premises than the number permitted by subclause (1).

2.6C Maximum number of persons—certain outdoor events

- (1) The maximum number of persons permitted at the following outdoor events are as follows—
 - (a) for a controlled outdoor public gathering—500 persons,
 - (b) for a COVID-19 safe outdoor public gathering—50 persons,
 - (c) for another outdoor public gathering—20 persons.
- (2) This clause applies in addition to the restrictions imposed in relation to the premises at which the event is held by the other provisions of this Part.
Example—A controlled outdoor public gathering at premises is still subject to the requirement that the number of persons should not be more than the number of persons equal to 1 person per 4 square metres of space in the premises.
- (3) The person principally responsible for organising the event must not allow more persons at the event than the maximum number of persons permitted by this Division.
- (4) A person must not attend the event if there are more persons at the event than the maximum number of persons permitted by this Division.
- (5) This clause does not apply to the following—

- (a) a gathering referred to in Schedule 3,
- (b) a gathering on premises for which the occupier of the premises is directed to develop a COVID-19 Safety Plan,
- (c) a gathering to provide emergency assistance to a person.

[11] Clause 2.7 Fitted face coverings

Omit clause 2.7(1)(c) and (d).

[12] Clause 2.7(1)(f)

Insert at the end of clause 2.7(1)(e)—

, or

- (f) on a domestic commercial aircraft, including when the aircraft is flying above the general area.

Note— The same requirement applies in stay at home areas and areas of concern, so a person must wear a fitted face covering whenever the person is on a domestic commercial aircraft in or above New South Wales.

[13] Clause 2.7(2A)

Insert after clause 2.7(2)—

- (2A) The following persons must ensure that a worker who carries out work at an airport in the general area complies with this Division when working at the airport—

- (a) a person who employs the worker to carry out the work,
- (b) a person who engages the worker to carry out the work as a contractor or subcontractor.

[14] Clause 2.11, heading

Insert “or dancing” after “Singing”.

[15] Clause 2.11(1)

Insert “or dance” after “sing”.

[16] Clause 2.11(2)(d)

Insert “or dancing” after “singing”.

[17] Clause 2.11(2)(e) and (f)

Insert after clause 2.11(2)(d)—

- (e) a wedding service or a gathering after a wedding service,
- (f) a group class at a gym or a recreation facility (indoor).

[18] Clause 2.12

Omit the clause. Insert instead—

2.12 Must be seated when at entertainment facility

The occupier of premises in the general area that is an entertainment facility must ensure all persons on the premises, other than persons engaged in work—

- (a) are assigned to specific seats, and
- (b) as far as is reasonably practicable, remain in the assigned seats at all times when on the premises.

[19] Clause 2.14

Insert after clause 2.13—

2.14 Must be seated when consuming food or drink at significant event

The occupier of premises in the general area must not allow a person to consume food or drink at a significant event held on the premises unless the person is seated.

[20] Clause 3.13 Maximum number of persons—outdoor public gatherings

Omit clause 3.13(1). Insert instead—

- (1) A person must not participate in an outdoor public gathering in a stay at home area of more than—
 - (a) if all persons participating in the gathering who are at least 16 years of age are fully vaccinated—5 persons, not including persons who are 12 years of age and under, or
 - (b) otherwise—2 persons.
- (1A) A person who is at least 16 years of age and participating in an outdoor public gathering in a stay at home area of more than 2 persons must—
 - (a) carry vaccination evidence for the person, and
Example— An online immunisation history statement or COVID-19 digital certificate from the Australian Immunisation Register.
 - (b) produce the evidence if requested to do so by a police officer.

[21] Clause 3.15 Fitted face coverings

Insert at the end of clause 3.15(2)(c)—

- , or
- (d) on a domestic commercial aircraft, including when the aircraft is flying above a stay at home area.

Note— The same requirement applies in the general area and areas of concern, so a person must wear a fitted face covering whenever the person is on a domestic commercial aircraft in or above New South Wales.

[22] Clause 3.15(3A)

Insert after clause 3.15(3)—

- (3A) The following persons must ensure that a worker who carries out work at an airport in a stay at home area complies with this Division when working at the airport—
 - (a) a person who employs the worker to carry out the work,
 - (b) a person who engages the worker to carry out the work as a contractor or subcontractor.

[23] Clause 4.16 Fitted face coverings

Insert at the end of clause 4.16(2)(c)—

- , or
- (d) on a domestic commercial aircraft, including when the aircraft is flying above an area of concern.

Note— The same requirement applies in the general area and stay at home areas, so a person must wear a fitted face covering whenever the person is on a domestic commercial aircraft in or above New South Wales.

[24] Clause 4.16(3A)

Insert after clause 4.16(3)—

- (3A) The following persons must ensure that a worker who carries out work at an airport in an area of concern complies with this Division when working at the airport—
- (a) a person who employs the worker to carry out the work,
 - (b) a person who engages the worker to carry out the work as a contractor or subcontractor.

[25] Clause 7.5

Omit the clause. Insert instead—

7.5 Repeal

Schedule 1, clauses 2–15 are repealed at the beginning of 1 October 2021.

[26] Schedule 1 Categories of area

Omit clause 3(3). Insert instead—

- (3) In this clause—

regional NSW area means the local government areas of Bathurst Regional, Bega Valley, Blayney, Bogan, Bourke, Brewarrina, City of Broken Hill, Cabonne, Central Coast, Central Darling, City of Cessnock, Dubbo Regional, Dungog, Eurobodalla, Forbes, Gilgandra, Goulburn Mulwaree, Kiama, City of Lake Macquarie, City of Lithgow, City of Maitland, Mid-Western Regional, Muswellbrook, Narrabri, Narromine, City of Newcastle, City of Orange, Parkes, Port Stephens, Queanbeyan-Palerang Regional, City of Shellharbour, City of Shoalhaven, Singleton, Snowy Monaro Regional, Upper Hunter Shire, Walgett and Wingecarribee.

[27] Schedule 2 Reasonable excuses

Insert after clause 14—

14A Transportation of household members

A person may leave the person's place of residence if reasonably necessary to transport a member of the person's household who is authorised to leave the place of residence under this Schedule.

Example— Driving children to a school.

[28] Schedule 2, clause 20(1), example

Insert after clause 20(1)—

Example— This applies to leisure activities, including fishing.

[29] Schedule 2, clause 21, heading

Omit “Small funeral”. Insert instead “Funeral”.

[30] Schedule 2, clause 21

Omit “small”.

[31] Schedule 2, clause 21(2)

Insert at the end of the clause—

- (2) In this clause—
service includes a gathering after the service.

[32] Schedule 2, clause 21A, heading

Omit “Small wedding”. Insert instead “Wedding”.

[33] Schedule 2, clause 21A

Omit “small” wherever occurring.

[34] Schedule 2, clause 24A

Insert after clause 24—

24A Outdoor recreation for fully vaccinated persons

- (1) A person may leave the person’s place of residence for outdoor recreation no further than 5 kilometres from the place of residence if the person—
- (a) is a fully vaccinated person or is under 16 years of age, and
 - (b) undertakes the outdoor recreation only with persons who, if at least 16 years of age, are fully vaccinated persons.

Example— This applies to leisure activities, including fishing.

- (2) A person must not be away from the person’s place of residence for more than 2 hours per day under this clause.
- (3) A person who is at least 16 years of age who leaves the person’s place of residence under this clause must—
- (a) carry—
 - (i) evidence showing the person’s name and place of residence, and
 - (ii) vaccination evidence for the person, and

Example— An online immunisation history statement or COVID-19 digital certificate from the Australian Immunisation Register.
 - (b) produce the evidence if requested to do so by a police officer.

[35] Schedule 2, clause 25, heading

Omit “Small funeral”. Insert instead “Funeral”.

[36] Schedule 2, clause 25

Omit “small”.

[37] Schedule 2, clause 25(2)

Insert at the end of clause 25—

- (2) In this clause—
service includes a gathering after the service.

[38] Schedule 2, clause 26, heading

Omit “Small wedding”. Insert instead “Wedding”.

[39] Schedule 2, clause 26

Omit “small” wherever occurring.

[40] Schedule 4 Dictionary

Insert in alphabetical order—

controlled outdoor public gathering means an outdoor public gathering, other than a gathering referred to in Schedule 3, in an area—

- (a) that is enclosed or bounded by fencing or another form of barrier, and
- (b) access to which is controlled by way of a ticket, and
- (c) in relation to which all persons, other than persons engaged in work, are assigned to specific seats or to a seating area.

domestic commercial aircraft means an aircraft being used to transport passengers on a commercial basis—

- (a) to or from an airport in New South Wales, and
- (b) only within Australia.

event includes a function.

fully vaccinated person means a person who—

- (a) has had 2 doses of a COVID-19 vaccine, or
- (b) has a medical contraindication certificate issued to the person.

Schedule 2 Amendment of Public Health (COVID-19 Safety) Order 2021

[1] Schedule 4 Dictionary

Omit the definitions of *controlled outdoor public gathering* and *event*.

[2] Schedule 5 Amendment of Public Health (COVID-19 Additional Restrictions for Delta Outbreak) Order (No 2) 2021

Omit the Schedule.