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New South Wales

Public Health (COVID-19 Air and Maritime Arrivals) Order (No 1) 2022

under the

Public Health Act 2010

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

Dated 23 February 2022.

BRAD HAZZARD, MP
Minister for Health

Explanatory note

The object of this Order is to deal with the public health risk of COVID-19 associated with persons who arrive in New South Wales and have been in a country other than Australia within 14 days before the arrival. In particular, the Order provides for Ministerial directions in relation to quarantine requirements for persons who arrive in New South Wales by aircraft or vessel and have been in a country other than Australia within 14 days before the arrival.

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Public Health (COVID-19 Air and Maritime Arrivals) Order (No 1) 2022

under the

Public Health Act 2010

Part 1 Preliminary

1 Name of Order

This Order is the *Public Health (COVID-19 Air and Maritime Arrivals) Order (No 1) 2022*.

2 Commencement

This Order commences at 11:59pm on 23 February 2022.

3 Interpretation

- (1) The Dictionary in Schedule 1 defines words used in this Order.

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.

4 Grounds for concluding there is a risk to public health

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 and responding to outbreaks of COVID-19, which is a condition caused by infection with the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2),
- (b) COVID-19 is a potentially fatal condition and is highly contagious,
- (c) there is an ongoing risk of continuing introduction and transmission of COVID-19 in New South Wales.

5 Quarantine period

- (1) The *quarantine period* for a person arriving in New South Wales is determined, for the purposes of this Order, in accordance with this clause.
- (2) The quarantine period starts—
 - (a) for a relevant air arrival—when the person arrives in New South Wales, and
 - (b) for a relevant maritime arrival—when the person disembarks from the vessel.
- (3) The quarantine period ends if—
 - (a) at least 7 full days have passed since the person's quarantine period started, and

- (b) the Chief Health Officer is satisfied that, having regard to any testing for COVID-19, the person does not pose a risk of infecting another person with COVID-19.
- (4) If the quarantine period has not ended earlier in accordance with this clause, the quarantine period for a person ends when 14 full days have passed since the person's quarantine period started.

6 Meaning of “most practicable direct route”

In this Order, a requirement for a person to take the most practicable direct route does not prevent the person—

- (a) if the person is travelling by road—
 - (i) obtaining fuel for the vehicle or other necessary supplies for the vehicle or a person in the vehicle, or
 - (ii) taking a rest stop, including an overnight rest stop or meal break, or
 - (iii) dealing with an emergency, or
- (b) if the person is travelling by rail or air—
 - (i) travelling directly to suitable accommodation while waiting to transit out of the State if the person self-isolates until the transit, or
 - (ii) dealing with an emergency.

Part 2 Quarantine facilities

7 Introduction

This Part sets out directions of the Minister about quarantine facilities and quarantine persons.

8 Entering, remaining and departing quarantine or medical facilities

- (1) A quarantine person to whom a direction is given under clause 12 or 15(1)(a) or (b) 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) Despite subclause (1), a quarantine 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 quarantine person to leave the quarantine facility or medical facility.
- (3) A quarantine person who is not required to remain at a quarantine facility or medical facility under subclause (2)(b) must comply with any directions given by the Commissioner of Police in relation to the remainder of the quarantine period.
- (4) A quarantine 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 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.
- (6) 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.
- (7) 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 a relevant 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 for the purposes of complying with a direction applicable to the person under the Self-Isolation Order, or
 - (e) entering or accessing because of an emergency, or
 - (f) a person exercising functions or providing services necessary for the ordinary operation of the quarantine facility or medical facility.

9 Wearing of fitted face coverings

- (1) A quarantine 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) 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) A person transporting, or in or on a vehicle with, a quarantine person must wear a fitted face covering over the person's nose and mouth at all times when the quarantine person 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) 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.

10 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.

Part 3 Provisions for relevant international arrivals who are not fully vaccinated arrivals

Division 1 Preliminary

11 Introduction

This Part sets out directions of the Minister about relevant international arrivals who are not fully vaccinated arrivals.

Note— Commonwealth law regulates the circumstances under which persons are allowed to enter or leave Australia by air. This may include requirements for negative test results for COVID-19, whether before or after arrival or before departure.

Note— Part 4 sets out directions of the Minister concerning relevant international arrivals who are fully vaccinated arrivals.

Division 2 Arrival by aircraft

12 Persons arriving in NSW by aircraft

- (1) A relevant air arrival who is not a fully vaccinated arrival must do one of the following as directed by the Commissioner of Police—
 - (a) go directly to a quarantine facility,
 - (b) go directly to a medical facility for treatment.
- (2) A relevant air arrival must comply with a decision of the Commissioner of Police in relation to the relevant international arrival's—
 - (a) transit at the airport, and
 - (b) travel to the quarantine facility or medical facility.
- (3) This clause does not apply to a relevant air arrival who is a flight crew member and not fully vaccinated.

Note— See clause 13 for directions to relevant air arrivals who are flight crew members and not fully vaccinated.

13 Flight crew members who are not fully vaccinated

- (1) This clause applies to a relevant air arrival who is a flight crew member and not fully vaccinated.
- (2) The flight crew member must go directly to the member's place of residence or accommodation until the sooner of the following happens—
 - (a) the quarantine period ends,
 - (b) the member departs on another flight that leaves Australia.
- (3) The flight crew member may go to a place of residence as required by subclause (2) only if the member is a resident of New South Wales.
- (4) The flight crew member must do the following while residing at the member's place of residence or accommodation—
 - (a) not leave the residence or accommodation except—
 - (i) to undertake duties that are essential for safety or 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 another person to enter the place of residence or accommodation unless—
 - (i) the person usually lives at the place of residence or accommodation or the 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 place of residence, for the purpose of delivering food or essential items,
 - (c) otherwise comply with the NSW Health Guidelines.
- (5) The person who employs the flight crew member must—
- (a) arrange approved transportation for the member for travel under this clause to the member's place of residence or accommodation, and
 - (b) if, before the quarantine period ends, the member is departing New South Wales on a flight—arrange approved transportation for the member for travel under this clause to the airport, and
 - (c) if the member does not have a place of residence at which the person can stay until the person is able to depart on another flight that leaves New South Wales or until the quarantine period ends—arrange appropriate accommodation for the member, and
 - (d) ensure the member complies with any requirements in the NSW Health Guidelines in relation to the member's transportation or accommodation under this clause.

Division 3 Arrival by vessel

14 Persons arriving in NSW on a vessel

A relevant maritime arrival must not disembark from the vessel unless the relevant maritime arrival—

- (a) is authorised to do so by the Commissioner of Police under clause 15, or
- (b) disembarks for the purpose of undertaking an essential task under clause 16, or
- (c) is required to do so because of an emergency under clause 17.

15 Persons authorised to disembark by Commissioner of Police

- (1) A relevant maritime arrival who is not a fully vaccinated arrival and is authorised to disembark from a vessel under clause 14(a) must do one of the following as directed by the Commissioner of Police—
- (a) go directly to a quarantine facility,
 - (b) go directly to a medical facility for treatment,
 - (c) go directly to an airport or another vessel in order to immediately leave Australia on an international flight or the vessel, including an international flight or a vessel that stops in another State or a Territory before leaving Australia.
- (2) A relevant maritime arrival subject to a direction of the Commissioner of Police under subclause (1) must comply with a direction of the Commissioner in relation to the relevant maritime arrival's—
- (a) transit at the port, or
 - (b) travel to—
 - (i) the quarantine facility, or
 - (ii) the hospital or other medical facility, or

(iii) the airport or other vessel.

- (3) A relevant maritime arrival who is subject to a direction of the Commissioner of Police to leave a facility under subclause (1)(c) must comply with a direction of the Commissioner in relation to the quarantine person—
- (a) travelling to an airport or a vessel from the facility, or
 - (b) waiting at an airport or on a vessel to leave Australia.

16 Persons disembarking from vessels to undertake essential tasks

- (1) A relevant maritime arrival who is not a fully vaccinated arrival and disembarks from a vessel under clause 14(b) must—
- (a) remain within the relevant distance unless it is an emergency, and
 - (b) comply with the NSW Health Guideline: Appropriate PPE for Maritime Workers, and
 - (c) re-board the vessel immediately after completing the essential task, and
 - (d) comply with a direction of the Commissioner of Police in relation to disembarking from the vessel, carrying out the essential task or re-boarding the vessel after completing the essential task.
- (2) In this clause—
- relevant distance* means—
- (a) the distance—
 - (i) from the vessel that is reasonably necessary for the carrying out of the essential task, and
 - (ii) that is no further than 13 metres from the vessel, or
 - (b) a further distance permitted by the Commissioner of Police.

17 Persons disembarking because of emergency

A relevant maritime arrival who is not a fully vaccinated arrival and, because of an emergency, is required to disembark from a vessel under clause 14(c) must comply with a direction of the Commissioner of Police, including a direction in relation to—

- (a) re-boarding the vessel when it is safe to do so, or
- (b) going directly to a quarantine facility or hospital or other medical facility for the remainder of the quarantine period.

18 Employer of persons disembarking from vessels

- (1) The person who employs a relevant maritime arrival who is not a fully vaccinated arrival and disembarks from a vessel under clause 14 must—
- (a) arrange appropriate transportation for the relevant maritime arrival's travel to—
 - (i) the quarantine facility, or
 - (ii) the hospital or other medical facility, or
 - (iii) the airport or other vessel, and
 - (b) provide the relevant maritime arrival with a face mask, and
 - (c) take reasonable steps to ensure the relevant maritime arrival wears a face mask while—
 - (i) travelling to a place specified in paragraph (a), or
 - (ii) waiting at an airport to leave New South Wales.
- (2) In this clause—

appropriate transportation—

- (a) includes the use of a hire vehicle within the meaning of the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016*, but
- (b) excludes—
 - (i) a form of public transportation, and
 - (ii) a passenger service, including a taxi service, within the meaning of the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016*, other than the use of a hire vehicle.

Division 4 Miscellaneous

19 Compliance with NSW Health Guidelines

- (1) A relevant international arrival who is not a fully vaccinated arrival must comply with the NSW Health Guidelines, including in relation to tests for COVID-19 and restrictions or limitations about attending premises, for the period—
 - (a) starting when the relevant international arrival's quarantine period starts, and
 - (b) ending when 14 full days have passed since the relevant international arrival's quarantine period started.
- (2) The person who employs a flight crew member who is a fully vaccinated arrival must ensure the crew member complies with the NSW Health Guidelines until subclause (1) ceases to apply to the crew member.

Part 4 Provisions for relevant international arrivals who are fully vaccinated arrivals

20 Introduction

This Part sets out directions of the Minister about relevant international arrivals who are fully vaccinated arrivals.

Note— Commonwealth law regulates the circumstances under which persons are allowed to enter or leave Australia by air. This may include requirements for negative test results for COVID-19, whether before or after arrival or before departure.

Note— Part 3 sets out directions of the Minister concerning relevant international arrivals who are not fully vaccinated arrivals.

21 Fully vaccinated arrivals to comply with NSW Health Guidelines

- (1) A relevant international arrival who is a fully vaccinated arrival must comply with the NSW Health Guidelines for 14 days after the person arrives, including in relation to tests for COVID-19 and restrictions or limitations about attending premises.
- (2) The person who employs a flight crew member who is a fully vaccinated arrival must ensure the person complies with the NSW Health Guidelines until subclause (1) ceases to apply to the member.

22 Persons arriving in NSW from other countries

A relevant international arrival who is a fully vaccinated arrival must—

- (a) undergo a rapid antigen test for COVID-19 as soon as practicable, but no later than 24 hours after the relevant international arrival's arrival unless the NSW Health Guidelines provide that the person is not required to undergo a test for COVID-19 and
- (b) travel by the most practicable direct route to the person's residence or a place suitable for the relevant international arrival to reside in, and
- (c) self-isolate at the residence or place in accordance with clause 6 of the Self-Isolation Order as if the relevant international arrival were a diagnosed person until—
 - (i) the international arrival undergoes a rapid antigen test for COVID-19, and
 - (ii) the result for the test is negative.

23 Exemption for persons who have tested negative in another State or Territory

Clause 22 does not apply to a relevant international arrival who has undergone a test for COVID-19, or a rapid antigen test for COVID-19, in another State or Territory if the result of the test is negative.

Part 5 Transportation

24 Introduction

This Part sets out directions of the Minister about transportation.

25 Transportation providers

- (1) This clause applies to a person (a *transportation provider*) who provides a transportation service under this Order involving transporting—
 - (a) a relevant international arrival who is not a fully vaccinated arrival—
 - (i) to or from a quarantine facility, or
 - (ii) from a quarantine facility to a medical facility, or
 - (b) an unvaccinated overseas flight crew member using approved transportation.
- (2) A transportation provider must comply with the NSW Health Guidelines.
- (3) A person who employs a transportation provider must ensure the provider complies with the NSW Health Guidelines.

26 Transportation of relevant international arrivals who are not fully vaccinated

- (1) A relevant international arrival who is not a fully vaccinated arrival, and a person transporting or in or on a vehicle with the relevant international arrival, must wear a fitted face covering over the person's nose and mouth at all times when the relevant international arrival is being transported.
- (2) To avoid doubt, subclause (1) applies to the transportation of a relevant international arrival who is not fully vaccinated, whether or not the relevant international arrival is being transported to or from—
 - (a) an airport, a quarantine facility or a medical facility, or
 - (b) for a 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) 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.

27 Directions of Commissioner of Police

- (1) A person who provides a transportation service to a relevant international arrival who is not fully vaccinated 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 asked by a police officer, provide the person's name and contact details.
- (2) A person who employs a person who, under this Order, provides a transportation service to a relevant international arrival who is not fully vaccinated must, if asked by a police officer, provide the name and contact details of the person who provides the transportation service.

28 Name and contact details of certain transportation service providers

A person who transports any of the following persons is required to notify the Commissioner of Police of the person's name and contact details within 48 hours after providing the transportation service—

- (a) a relevant international arrival who is not a fully vaccinated arrival if the person is transported to or from a quarantine facility,
- (b) a flight crew member who is not a fully vaccinated arrival if the member is provided with approved transportation.

29 Evidence about vaccination status

- (1) This clause applies to each of the following persons (an *affected person*)—
- (a) a transportation provider,
 - (b) a relevant international arrival.
- (2) An affected person must provide a police officer with vaccination evidence if asked.

Part 6 COVID-19 vaccinations

30 Introduction

This Part sets out directions of the Minister about COVID-19 vaccinations.

31 COVID-19 vaccinations

- (1) This clause applies to a person (a *nominated 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 if—
 - (a) the person—
 - (i) is a person mentioned in clause 8(7), definition of *permitted person*, paragraph (a), (c) or (f) in relation to a quarantine facility, and
 - (ii) exercises functions or provides services in relation to the quarantine facility in the course of the person's employment, or
 - (b) the person provides a transportation service to a relevant person in the course of the person's employment, or
 - (c) the person exercises functions or provides services at an airport in the course of the person's employment.
- (2) A nominated person must not, in the course of the person's employment, do any of the following, unless the person has been vaccinated against COVID-19—
 - (a) for a nominated person mentioned in subclause (1)(a)—enter, or provide services at, a quarantine facility,
 - (b) for a nominated person mentioned 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 person mentioned in subclause (1)(c)—enter, or provide services at, an airport.
- (3) Subclause (2) does not apply if—
 - (a) the person has—
 - (i) a medical contraindication certificate issued to the person, or
 - (ii) a medical contraindication recorded on the Australian Immunisation Register that prevents the person from receiving any approved COVID-19 vaccine available in New South Wales, or
 - (b) a nominated person specified in subclause (1)(b) is providing an unvaccinated overseas 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) A person who employs a nominated person must ensure that the nominated person complies with subclause (2).
- (5) A nominated person must, if asked, produce the nominated person's vaccination evidence for inspection by the following people—
 - (a) a person who employs the nominated person,
 - (b) a police officer.
- (6) A person who employs the nominated employer must, if asked, produce the nominated person's vaccination evidence for inspection by a police officer.
- (7) 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.

vaccinated against COVID-19, in relation to a person, means the person has received 2 doses of a COVID-19 vaccine.

32 Invalidated medical contraindication certificates

- (1) This clause applies to a nominated person within the meaning of clause 31 (an ***affected person***) if—
 - (a) the person presented a medical contraindication certificate to a person who employs the person under clause 31(5) or a corresponding provision of a prior Order, and
 - (b) the medical contraindication certificate was issued by a medical practitioner who subsequently becomes subject to a registration condition relating to the practitioner's ability to issue 1 or more types of medical certificates, including medical contraindication certificates.
- (2) An affected person must, on being notified by a person who employs the person that the person is an affected person—
 - (a) immediately cease work, and
 - (b) not resume work until the person—
 - (i) presents a new medical contraindication certificate to the person who employs the person, or
 - (ii) is vaccinated against COVID-19.
- (3) In this clause—

prior Order means the following—

 - (a) the *Public Health (COVID-19 Air Transportation Quarantine) Order (No 2) 2021*,
 - (b) the *Public Health (COVID-19 Air Transportation Quarantine) Order (No 3) 2021*,
 - (c) the *Public Health (COVID-19 Air Transportation Quarantine) Order (No 4) 2021*.

33 Issue of medical contraindication certificates

A medical practitioner must not issue a person a medical contraindication certificate unless the medical practitioner reasonably believes that, because of a specified medical contraindication, the person cannot have any approved COVID-19 vaccine available in New South Wales.

Part 7 Records and information

34 Introduction

This Part sets out directions of the Minister about provision of information.

35 Directions of Commissioner of Police about vaccination information

A person who disembarks from a vessel under this Order must, if asked by a police officer, provide —

- (a) the person's name and contact details, and
- (b) evidence the person is a fully vaccinated arrival.

36 Information provided must be true and accurate

- (1) A person must ensure information provided under this Order is true and accurate.
- (2) A person must not provide to another person, information purporting to show the person is a fully vaccinated arrival, unless the information is true and accurate.
- (3) In this clause—
information includes evidence.
provide includes display or produce.

Part 8 Miscellaneous

Division 1 Additional directions

37 Introduction

This Part sets out directions of the Minister about—

- (a) persons boarding and disembarking from vessels, and
- (b) record keeping in relation to vessels.

38 Persons boarding and disembarking from vessels

- (1) The following persons are the only persons authorised to board, and subsequently disembark from, a vessel on which there is a relevant maritime arrival who is not a fully vaccinated arrival—
 - (a) a person required to board the vessel—
 - (i) to assist the vessel to dock or depart, or
 - (ii) to assist in refuelling or restocking the vessel, or
 - (iii) to assist in loading or unloading cargo, or
 - (iv) to exercise border security, customs or quarantine functions, or
 - (v) in an emergency, or
 - (vi) to repair or maintain the vessel, or
 - (vii) in the person's capacity as a ship agent or ship classification surveyor,
 - (b) a person who was previously on the vessel and disembarked,
 - (c) a medical practitioner or other health practitioner required to board the vessel to provide medical treatment or testing to a person on board the vessel,
 - (d) a person involved in the enforcement of this Order,
 - (e) a member of staff of the operator of a terminal required to board the vessel to undertake ship to shore requirements,
 - (f) an Australian Maritime Safety Authority inspector,
 - (g) a person conducting an inspection for or on behalf of a regulator or a verification and audit body that is recognised by the shipping industry,
 - (h) a union official,
 - (i) a cargo surveyor,
 - (j) a person exercising insurance functions.
- (2) Despite subclause (1), a person is not authorised to board, or disembark from, a vessel if the Commissioner of Police directs that the person should not board or disembark from the vessel.
- (3) A person who boards a vessel under subclause (1) must comply with the NSW Health Guideline: Appropriate PPE for Maritime Workers.
- (4) A person who boards a vessel under subclause (1) must disembark from the vessel immediately after exercising the function for which the person was required to board the vessel.

39 Obligation of occupiers of wharves to keep certain records

- (1) The occupier of the wharf at which a vessel on which there is a relevant maritime arrival who is not a fully vaccinated arrival is docked must take reasonable steps to collect contact details for the passengers and the crew members of the vessel.

- (2) The occupier of the wharf must—
 - (a) keep, for at least 4 weeks, a record of contact details given to the occupier under this clause, and
 - (b) on request, provide the record to the Chief Health Officer as soon as practicable, but no later than 4 hours, after the request is made.

40 Obligation of masters of vessels to keep certain records

- (1) The master of a vessel on which there is a relevant maritime arrival must—
 - (a) take reasonable steps to ensure the passengers and the crew of the vessel comply with this Order, and
 - (b) keep a record of vaccination evidence provided by the passengers and crew of the vessel under subclause (2).
- (2) A person who is a passenger or a crew member of a vessel on which there is a relevant maritime arrival must, if asked by the master of the vessel, provide the master with the person's vaccination evidence.
- (3) The master of the vessel must—
 - (a) keep, for at least 4 weeks, a record of vaccination evidence given to the master under this clause, and
 - (b) if asked, provide the record to the Chief Health Officer or police officer as soon as practicable, but no later than 4 hours, after the request is made.

Division 2 Other matters

41 Advice provided by Chief Health Officer

The Commissioner of Police must, in the exercise of a function under this Order, have regard to advice provided by the Chief Health Officer, or a delegate of the Chief Health Officer, for the purposes of this Order.

42 Relationship of Order with Self-Isolation Order

- (1) A person to whom a direction is given under this Order must continue to comply with a direction applicable to the person under the Self-Isolation Order.
- (2) If a direction applicable to a person under this Order is inconsistent with a direction applicable to the person under the Self-Isolation Order, the direction under the Self-Isolation Order prevails to the extent of the inconsistency.

43 Exemptions

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

44 Repeal and savings

- (1) The following Orders (each a *repealed Order*) are repealed—
 - (a) the *Public Health (COVID-19 Air Transportation Quarantine) Order (No 4) 2021*,
 - (b) the *Public Health (COVID-19 Maritime Quarantine) Order (No 4) 2021*.
- (2) Any act, matter or thing that, immediately before the repeal of a 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 a 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 a 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 a repealed Order was in force, the exemption continues as if it were granted under this Order, and
- (d) a delegation by the Minister or the Commissioner of Police under a repealed Order was in force, the delegation continues as if it were made for the purposes of this Order.

Schedule 1 Dictionary

approved COVID-19 vaccine means a vaccine approved by the Therapeutic Goods Administration of the Commonwealth for use in Australia as a vaccine against COVID-19.

approved personal transportation, of an unvaccinated overseas flight crew member, means the use of a private vehicle that the unvaccinated overseas 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 28, or
- (c) approved personal transportation of an unvaccinated overseas flight crew member.

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 that Act, section 31.

contact details, of a person, means—

- (a) the person's name, and
- (b) the person's telephone number or email address.

COVID-19 vaccine means—

- (a) an approved COVID-19 vaccine, or
- (b) a vaccine, other than an approved COVID-19 vaccine, recognised by the Therapeutic Goods Administration of the Commonwealth as an appropriate vaccine against COVID-19 for incoming travellers to Australia.

Note. On the making of this Order, the recognised vaccines were specified in the document titled "COVID-19 vaccines not registered in Australia but in current international use – TGA advice on "recognition"", published on the website of the Therapeutic Goods Administration of the Commonwealth and dated 27 September 2021.

employ includes engage a person as a contractor or subcontractor.

essential task includes the following—

- (a) loading or unloading cargo,
- (b) rigging gangways,
- (c) undertaking ship to shore activities,
- (d) connecting water or fuel to a vessel,
- (e) receiving or loading stores,
- (f) disposing of waste,
- (g) carrying out essential maintenance on a vessel,
- (h) carrying out safety checks and activities,
- (i) preparing a vessel for sailing,
- (j) being assessed or treated by a health practitioner as approved by an authorised medical practitioner within the meaning of the Act, section 60, including—
 - (i) being tested for COVID-19, and
 - (ii) obtaining a dose of a COVID vaccine.

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.

flight crew member includes a member of a positioning crew.

flight crew transport service provider means a person who provides a transportation service to an unvaccinated overseas flight crew member.

full day means a period of 24 hours commencing at 12am and ending at 12am on the following day.

fully vaccinated arrival means—

- (a) a person who, before arriving in New South Wales, has received the number of doses required for a complete course of a COVID-19 vaccine, or
- (b) a person who has sufficient evidence to demonstrate the person has a medical contraindication to all COVID-19 vaccines reasonably available, or
- (c) if the person in paragraph (a) or (b) is over 18 years of age—a person under 18 years of age who is accompanying the person, or
- (d) a person under 18 years of age who is not accompanied by a person over 18 years of age.

medical contraindication certificate—

- (a) means a certificate issued by a medical practitioner—
 - (i) in a form approved by the Chief Health Officer, and
 - (ii) certifying that, because of a specified medical contraindication, the worker cannot have any approved COVID-19 vaccine available in New South Wales, but
- (b) does not include a certificate issued by a medical practitioner—
 - (i) whose registration under the *Health Practitioner Regulation National Law (NSW)* is subject to a condition relating to the issue of 1 or more types of medical certificate, including medical contraindication certificates, or
 - (ii) in contravention of clause 33.

medical facility means a hospital or other medical facility.

member of a positioning crew means a person who—

- (a) is identified as a member of a positioning crew—
 - (i) in the flight manifest of the flight on which the person arrived in New South Wales, or
 - (ii) in a letter from the person's employer or the airline the person will be flying for, and
- (b) has documentary evidence of the flight, including the date of the flight, on which the person will leave Australia.

NSW Health Guidelines means the *NSW Health Guideline for All International Arrivals* published on the website of NSW Health, as in force for the time being.

Note—

www.health.nsw.gov.au

NSW Health Guideline: Appropriate PPE for Maritime Workers means the *NSW Health Guideline: Appropriate Personal Protective Equipment (PPE) for Maritime Workers* published on the website of NSW Health, as in force for the time being.

Note— www.health.nsw.gov.au

quarantine facility means premises designated as a quarantine facility under clause 10.

quarantine period—see clause 5.

quarantine person means a relevant international arrival directed by the Commissioner of Police to—

- (a) go directly to a quarantine facility, or
- (b) go directly to a medical facility for treatment.

relevant air arrival means—

- (a) a person who—
 - (i) arrives in New South Wales by aircraft, whether the flight originates interstate or overseas, and
 - (ii) has, within 14 days immediately before the person’s arrival, been in a country other than Australia, or
- (b) a relevant flight crew member.

relevant international arrival means—

- (a) a relevant air arrival, or
- (b) a relevant maritime arrival.

relevant maritime arrival—

- (a) means a person who arrives in New South Wales on a vessel that comes from a port outside New South Wales, but
- (b) does not include a person who arrives in New South Wales on a vessel that arrives, or has arrived, in New South Wales on a voyage if—
 - (i) the voyage commenced from a port in Australia, and
 - (ii) the vessel has not stopped at a port outside Australia on the voyage, and
 - (iii) each person on board the vessel boarded the vessel at a port in Australia.

Self-Isolation Order means the following—

- (a) the *Public Health (COVID-19 Self-Isolation) Order (No 4) 2021*,
- (b) an order under the Act, section 7 that remakes, replaces or consolidates, whether in whole or in part, an order referred to in paragraph (a).

test for COVID-19 means a test for COVID-19 carried out by, or on behalf of, NSW Health.

the Act means the *Public Health Act 2010*.

unvaccinated overseas flight crew member means a relevant air arrival who is a flight crew member and not fully vaccinated.

vaccination evidence means documentation providing evidence a person—

- (a) has been vaccinated against COVID-19, or
- (b) a medical contraindication preventing the person from receiving any COVID-19 vaccine.

vessel has the same meaning as in the *Ports and Maritime Administration Act 1995*.

wharf includes a pier, jetty, landing stage, dock, slip or platform.