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New South Wales

# Public Health (COVID-19 Restrictions on Gathering and Movement) 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 29 May 2020.

BRAD HAZZARD, MP  
Minister for Health and Medical Research

## Explanatory note

The object of this Order is to revoke and remake the *Public Health (COVID-19 Restrictions on Gathering and Movement) Order (No 2) 2020* to ease certain restrictions.

This Order is made under section 7 of the *Public Health Act 2010*.

## Public Health (COVID-19 Restrictions on Gathering and Movement) 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 Restrictions on Gathering and Movement) Order (No 3) 2020*.

#### 2 Commencement

This Order commences at the beginning of 1 June 2020.

#### 3 Definitions

(1) In this Order—

***existing separate seated food or drink area*** means a separate seated area for the consumption of food or drink that existed immediately before the making of this Order.

***household*** means persons living together in the same place of residence.

***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.

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

***parent***, in relation to a child, includes a person who has parental responsibility for, or care of, the child.

***place of residence*** includes the premises where a person lives and a garden, yard, passage, stairs, garage, outhouse or other area or thing attached to, or used in connection with, the premises.

***the Act*** means the *Public Health Act 2010*.

***work*** includes work done as a volunteer or for a charitable organisation.

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

(2) A reference to a type of premises in this Order 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.

**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.

**Recreation facility (major)** means a building or place used for large-scale sporting or recreation activities that are attended by large numbers of people whether regularly or periodically, and includes theme parks, sports stadiums, showgrounds, racecourses and motor racing tracks.

**Registered club** means a club that holds a club licence under the *Liquor Act 2007*.

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

#### 4 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, including by means of community transmission.

## Part 2 Restrictions on gatherings and use of premises

### 5 Directions of Minister concerning restricted use of certain premises

- (1) The Minister directs that premises referred in column 1 of Schedule 1 are subject to—
  - (a) the limitation on the number of persons that may be on the premises at any time set out opposite the premises in column 2 of the Schedule, and
  - (b) the condition that no person may be on the premises as part of an individual group of more than 10 persons, and
  - (c) any other restrictions or conditions set out opposite the premises in column 3 of the Schedule.
- (2) Subclause (1)(b) does not apply to persons—
  - (a) engaging in work on the premises,
  - (b) participating in a gathering for a wedding, funeral, memorial or religious service, or a gathering immediately after a wedding, funeral or memorial service, at which no more than the number of persons permitted at the service or gathering under clause 11 are on the premises.
- (3) If it is a condition that there must be a COVID-19 safety plan for the premises, the occupier or operator of the premises must—
  - (a) develop and comply with a safety plan for the premises that addresses the matters required by the COVID-19 safety checklist approved by the Chief Health Officer in relation to the type of premises and published on an appropriate Government website, and
  - (b) keep a copy of the COVID-19 safety plan on the premises and make it available for inspection by an authorised officer as requested.

### 6 Direction of Minister about use of premises for certain purposes

Nothing in this Part or Schedule 1 prevents the use of premises—

- (a) to provide a service to assist vulnerable members of the public, including, for example, a food bank or a service providing for the needs of homeless persons, or
- (b) for counselling and support group services, or
- (c) as an early education and care facility.

### 7 Direction of Minister about persons allowed on residential premises

- (1) The Minister directs that each person who is at any time an adult member of a household—
  - (a) must not allow more than 5 visitors to be at the place of residence of the household at any one time, or
  - (b) must take reasonable steps to ensure that no more than 5 visitors are at the place of residence of the household at any one time.
- (2) A person is not a *visitor* for a place of residence if—
  - (a) the person is a member of the household of the place of residence, or
  - (b) the person is at the place of residence for any of the following purposes—
    - (i) for the purpose of engaging in work,
    - (ii) for childcare,
    - (iii) to fulfil carers' responsibilities,

- (iv) to provide care or assistance, including personal care, to a vulnerable person,
- (v) to participate in a gathering for a wedding or funeral or memorial service or a gathering immediately after the service at which no more than the number of persons permitted at the service or gathering under clause 11 are on the premises,
- (vi) to give effect to new or existing arrangements for spending time with, and providing contact between, parents and children under the age of 18 or between siblings,
- (vii) to assist a person moving to or from the place of residence,
- (viii) to avoid an injury or illness or to escape a risk of harm,
- (ix) because of an emergency or for compassionate reasons.

#### **8 Directions of Minister about number of persons allowed on other premises**

- (1) Subject to subclause (2), the Minister directs that a person who is the occupier or operator of premises must not—
  - (a) for premises comprised predominantly of an outdoor space—allow more than 500 persons to be on the premises at the same time, or
  - (b) for premises comprised predominantly of an indoor space—allow more than 100 persons to be on the premises at the same time, or
  - (c) allow persons to be on the premises (whether comprised of an outdoor or indoor space) if the size of the premises is insufficient to ensure there is 4 square metres of space for each person on the premises.

**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.

This clause does not prevent the conduct of events (such as sporting or racing events) subject to the limits in this subclause and the prohibition in clause 10 on gatherings of more than 10 persons.

- (2) This clause does not apply to—
  - (a) a place of residence, or
  - (b) premises referred to in Schedule 1, unless otherwise specified in that Schedule, or
  - (c) a gathering referred to in Schedule 2.

#### **9 Direction of Minister about place of work**

The Minister directs that an employer must allow an employee to work at the person's place of residence if it is reasonably practicable to do so.

#### **10 Directions of Minister about public gatherings**

- (1) The Minister directs that a person must not participate in a public gathering of more than 10 persons.
- (2) A person is not part of a public gathering if the person is—
  - (a) engaged in work, or
  - (b) providing care or assistance to vulnerable persons.
- (3) This clause does not apply to the following—
  - (a) a gathering referred to in Schedule 2 or premises referred to in Schedule 1,
  - (b) a gathering of persons all of whom are members of the same household,

- (c) participating in a gathering for a wedding, funeral, memorial or religious service, or a gathering immediately after a wedding, funeral or memorial service, at which no more than the number of persons permitted at the service or gathering under clause 11 are on the premises,
  - (d) a gathering to facilitate a move to a new place of residence or a business moving to new premises,
  - (e) a gathering to provide emergency assistance,
  - (f) a gathering necessary for the person to fulfil a legal obligation, including attending a court or tribunal, satisfying bail requirements or participating in legal proceedings,
  - (g) a gathering of persons on real property to enable persons to view or inspect the real property for the purposes of the sale or lease of the real property,
  - (h) a gathering of persons at a display home or other display premises to enable persons to view or inspect the display home or display premises for the purposes of the sale or lease of real property.
- (4) In this clause—  
**public gathering** means a meeting or assembly of persons for a common purpose, including an organised or planned event in a public place (whether ticketed or not).  
**public place** has the same meaning as in the *Summary Offences Act 1988*.

#### 11 Directions of Minister about gatherings for weddings, funerals, memorial services and religious services

- (1) The Minister directs that a person must not participate in—
- (a) a gathering for a wedding service, or a gathering immediately after a wedding service, at which there are more than 20 persons, excluding—
    - (i) the persons being married, and
    - (ii) the persons necessary for the conduct of, or assisting in the conduct of, the service or gathering, and
    - (iii) one photographer and one videographer,
  - (b) a gathering for a funeral service or memorial service, or a gathering immediately after a funeral or memorial service, at which there are more than 50 persons, excluding the persons necessary for the conduct of, or assisting in the conduct of, the service or gathering, including, for example—
    - (i) the funeral celebrant or minister of religion, and
    - (ii) the funeral directors,
  - (c) a gathering for a religious service at which there are more than 50 persons, excluding the persons necessary for the conduct of, or assisting in the conduct of, the service.
- (2) The Minister directs that—
- (a) a person at a wedding, funeral, memorial or religious service, or a gathering immediately after a wedding, funeral or memorial service, must provide the person's name and contact details, including a telephone number or email address, to the relevant person for the service, and
  - (b) the relevant person for the service or gathering must record the names and contact details, including telephone numbers and email addresses, of all persons at the service.
- (3) In this clause—



***relevant person***, for a wedding, funeral, memorial or religious service, or a gathering immediately after a wedding, funeral or memorial service, means—

- (a) for a service or gathering held in an indoor space—the occupier or operator of the premises, or
- (b) for a service or gathering held in an outdoor space—the person conducting the service.

## Part 3 Records and exchanges of information

### 12 Keeping records

The Minister directs that a person who is required to record information by this Order must—

- (a) keep the record for at least a period of 4 weeks, and
- (b) on request, provide the record to the Chief Health Officer.

### 13 Direction of the Minister concerning information exchange

- (1) The Minister directs that a government sector agency or a NSW Minister (the **first agency**) is authorised to collect information from, or use or disclose information to, a related agency 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—

**government sector agency** means a government sector agency within the meaning of the *Government Sector Employment Act 2013*.

**information** includes personal information or health information.

**NSW Minister** means a Minister of the State.

**related agency** means—

- (a) a government sector agency or NSW Minister, or
- (b) an agency or Minister of the Commonwealth or another State or Territory.

## **Part 4 Miscellaneous**

### **14 Exemptions**

The Minister may, in writing and subject to the conditions that the Minister considers appropriate, grant an exemption to this Order or specified provisions of this Order.

### **15 Revocation of existing Order and savings**

- (1) The *Public Health (COVID-19 Restrictions on Gathering and Movement) Order (No 2) 2020* is revoked.
- (2) Any act, matter or thing that, immediately before the revocation of the *Public Health (COVID-19 Restrictions on Gathering and Movement) Order (No 2) 2020*, had effect under that Order continues to have effect under this Order.

## Schedule 1 Restricted premises

**Note.** Premises referred to in this Schedule are subject to certain limitations, restrictions or conditions. Any premises not referred to in this Schedule are open and only subject to the restrictions in clause 8 about the number of persons allowed on premises, unless the premises are a place of residence or the persons on the premises are there for the purposes of an essential gathering referred to in Schedule 2.

<b>Premises</b> <b>column 1</b>	<b>Limitation on number of persons on premises</b> <b>column 2</b>	<b>Restrictions or conditions</b> <b>column 3</b>
1. Amusement centres		Premises must not be open to the public
2. Aquariums	No more than the total number of persons calculated by allowing 4 square metres of space for each person (including staff members) on the premises. In calculating the area of the premises, animal enclosures must be excluded.	(a) any indoor cinema on the premises must not be open to the public (b) must have a COVID-19 safety plan
3. Business premises that are used for auction houses, other than clearing houses	as per clause 8(1)	For an auction house that conducts auctions for goods other than food, livestock, fibre or real property—must have a COVID-19 safety plan
4. Business premises that are used for betting agencies	The lesser of the following number of customers— (a) 10 customers, or (b) the total number of customers calculated by allowing 4 square metres of space for each customer (excluding staff members) on the premises	Must have a COVID-19 safety plan
5. Caravan parks and camping grounds	no limitation	Must have a COVID-19 safety plan
6. Casinos	For the purposes of accessing goods or services (other than accommodation services) the lesser of the following number of customers— (a) 50 customers per existing separate seated food or drink area, (b) the total number of customers calculated by allowing 4 square metres of space for each customer (excluding staff members) on the premises	(a) a person entering the premises must provide the person’s name and contact details, including a telephone number or email address, to the occupier or operator of the premises (b) the occupier or operator of the premises must record the names and contact details, including telephone numbers or email addresses, of all persons entering the premises (c) must have a COVID-19 safety plan

<b>Premises</b>	<b>Limitation on number of persons on premises</b>	<b>Restrictions or conditions</b>
<b>column 1</b>	<b>column 2</b>	<b>column 3</b>
7. Community centres	(a) No more than the total number of persons calculated by allowing 4 square metres of space for each person (including staff members) on the premises for the purposes of clause 6(b)  (b) No limitation for the purposes of clauses 6(a) and (c)	Premises must not be open to the public other than as per clause 6
8. Drive-in cinema	no limitation	Must have a COVID-19 safety plan
9. Entertainment facilities		Premises must not be open to the public
10. Food and drink premises, including premises that are within other premises, excluding premises referred to in items 6, 15 and 22.	The number of customers that may consume food or drink on the premises is the lesser of the following number of customers—  (a) 50 customers per existing separate seated food or drink area, or  (b) the total number of customers calculated by allowing 4 square metres of space for each customer (excluding staff members) on the premises  If the food or drink premises includes more than one restaurant or cafe, the limitation on the number of customers to whom food and drink may be sold for consumption on the premises is per restaurant or cafe on the premises. For example, if the food and drink premises includes 2 restaurants, each restaurant may sell food or drinks at any time to no more than 50 customers to consume on the premises, subject to having at least 4 square metres of space for each person (other than staff members) in the restaurant.	(a) a person entering the premises must provide the person's name and contact details, including a telephone number or email address, to the occupier or operator of the premises  (b) the occupier or operator of the premises must record the names and contact details, including telephone numbers or email addresses, of all persons entering the premises  (c) must have a COVID-19 safety plan

<b>Premises</b> <b>column 1</b>	<b>Limitation on number of persons on premises</b> <b>column 2</b>	<b>Restrictions or conditions</b> <b>column 3</b>
11. Food courts		Occupier or operator of premises must ensure that any tables and chairs within the food court are not available for use for the consumption of food or drinks
12. Holiday homes and holiday rentals	No more than 10 persons, unless all persons are members of the same household	
13. Information and education facilities	No more than the total number of persons calculated by allowing 4 square metres of space for each person (including staff members) on the premises	(a) any indoor cinemas, theatres or theatrettes must be closed (b) must have a COVID-19 safety plan
14. Markets that are not predominantly food markets		Premises must not be open to the public
15. Micro-breweries, small distilleries holding a drink on-premises authorisation under the <i>Liquor Act 2007</i> or cellar door premises	The number of customers that may consume food or drink on the premises is the lesser of — (a) 50 customers per existing separate seated food or drink area, or (b) the total number of persons calculated by allowing 4 square metres of space for each person (excluding staff members) on the premises	(a) a person entering the premises must provide the person's name and contact details, including a telephone number or email address, to the occupier or operator of the premises (b) the occupier or operator of the premises must record the names and contact details, including telephone numbers or email addresses, of all persons entering the premises (c) must have a COVID-19 safety plan
16. Business premises that are used for nail salons, beauty salons, waxing salons and tanning salons	The lesser of the following— (a) 10 customers and the business's staff members, or (b) the total number of persons calculated by allowing 4 square metres of space for each person (including staff members) on the premises	Must have a COVID-19 safety plan
17. National parks and State forests	no limitation	

<b>Premises</b> <b>column 1</b>	<b>Limitation on number of persons on premises</b> <b>column 2</b>	<b>Restrictions or conditions</b> <b>column 3</b>
18. Places of public worship	For a wedding, funeral, memorial or religious service—as per clause 11(1) For private worship, the lesser of— (a) 50 persons, or (b) the total number of persons calculated by allowing 4 square metres of space for each person on the premises	(a) may be open to the public only for a wedding, funeral, memorial or religious service or for private worship (b) for a wedding, funeral, memorial or religious service—as per clause 11(2)
19. Properties operated by the National Trust or the Historic Houses Trust	No more than the total number of persons calculated by allowing 4 square metres of space for each person (including staff members) on the premises	Must have a COVID-19 safety plan
20. Public indoor swimming pools	No more than the total number of persons calculated by allowing 4 square metres of space for each person (including staff members) on the premises	Premises must not be open to members of the public unless— (a) the swimming pool is 25 metres or more in length, and (b) it is open to the public only for the purposes of allowing squad training to take place, and (c) each lane of the pool has only one swimmer in the lane at any one time, and (d) there are no more than 10 persons in the pool at any one time.
21. Public outdoor swimming pools	No more than the total number of persons calculated by allowing 4 square metres of space for each person (including staff members) on the premises	No more than 10 persons are permitted to swim in the pool at any time

<b>Premises</b> <b>column 1</b>	<b>Limitation on number of persons on premises</b> <b>column 2</b>	<b>Restrictions or conditions</b> <b>column 3</b>
22. Pubs and registered clubs (including a racing club within the meaning of the Liquor Act 2007)	<p>For the purposes of accessing good or services, other than accommodation services, the lesser of the following number of customers—</p> <p>(a) 50 customers per existing separate seated food or drink area,</p> <p>(b) the total number of persons calculated by allowing 4 square metres of space for each customer (excluding staff members) on the premises</p> <p>Any persons on a bowling green on the premises are not to be counted in the total number of persons on the premises, provided no more than 10 persons are on the green at any one time.</p>	<p>(a) a person entering the premises must provide the person's name and contact details, including a telephone number or email address, to the occupier or operator of the pub or registered club</p> <p>(b) the occupier or operator of the pub or registered club must record the names and contact details, including telephone numbers or email addresses, of all persons entering the premises</p> <p>(c) must have a COVID-19 safety plan</p>
23. Recreation facilities (indoor)		Premises must not be open to members of the public
24. Recreation facilities (major)	No more than 10 persons (excluding persons engaged in work)	
25. Retail stores (other than a supermarket, market that predominately sells food or grocery store)	No more than the total number of persons calculated by allowing 4 square metres of space for each person on the premises	
26. Sex service premises		Premises must not be open to members of the public
27. Spas, tattoo parlours and massage parlours	No more than the total number of persons calculated by allowing 4 square metres of space for each person (including staff members) on the premises	Open only for retail sale of goods and gift vouchers
28. Strip clubs		Premises must not be open to members of the public
29. Zoological parks and reptile parks	No more than the total number of persons calculated by allowing 4 square metres of space for each person (including staff) on the premises. In calculating the area of the premises, animal enclosures must be excluded.	<p>(a) any indoor cinema on the premises must not be open to the public</p> <p>(b) must have and comply with a COVID-19 safety plan</p>



## Schedule 2 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 truck stops, 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, including the provision of training by an emergency service
- 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, market that predominately sells food, grocery store or shopping centre (but not a retail store in a shopping centre other than a supermarket, market that predominately sells food or grocery store) that is necessary for the normal business of the supermarket, market, store or centre
- 10 a gathering at an office building, farm, factory, warehouse, commercial fishing operation or mining or construction site or on a commercial vessel that is necessary for the normal operation of the tenants within the building, farm, factory, warehouse, commercial fishing operation or site or of the commercial vessel
- 11 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
- 12 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
- 13 a gathering at an outdoor space for the purposes of transiting through the place  
**Example.** Pitt Street Mall

Reference number:(n2020-1586)