



New South Wales

# Public Health (COVID-19 Maritime Quarantine) Order (No 2) 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 24 June 2020 (original order).

As amended on 29 June 2020 at 9 pm and 6 August 2020 at 10.45am.

Minister for Health and Medical Research

## Explanatory note

The object of this Order is to deal with the public health risk of COVID-19 and its possible consequences by giving a Ministerial direction that a person who arrives in New South Wales by maritime vessel must undertake mandatory quarantine for a period of 14 days.

Section 10 of the *Public Health Act 2010* creates an offence if an individual fails to comply with a direction with a maximum penalty of imprisonment for 6 months or a fine of up to \$11,000 (or both) plus a further \$5,500 fine each day the offence continues. Corporations that fail to comply with a direction are liable to a fine of \$55,000 and \$27,500 each day the offence continues.

## Editorial note

This is the order as amended by the *Public Health (COVID-19 Air Transportation and Maritime Quarantine) Amendment Order (No 2) 2020* and the *Public Health (COVID-19 Maritime Quarantine) Order (No 2) Amendment Order 2020*.

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## Public Health (COVID-19 Maritime Quarantine) Order (No 2) 2020

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### Part 1 Preliminary

#### 1 Name of Order

This Order is the *Public Health (COVID-19 Maritime Quarantine) Order (No 2) 2020*.

#### 2 Commencement

This Order commences at the beginning of 25 June 2020.

#### 2A Application

- (1) This Order does not apply to or in respect of a vessel that arrives, or has arrived, in New South Wales on a voyage if—
- (a) the voyage commenced from a port in Australia, and
  - (b) the vessel has not stopped at a port outside Australia on the voyage, and
  - (c) each person on board the vessel boarded the vessel at a port in Australia.

**Note.** A person who arrives in NSW by air to join a vessel must comply with quarantine requirements as set out in the *Public Health (COVID-19 Air Transportation Quarantine) Order (No 2) 2020*.

- (2) This Order does not override any restrictions imposed on a person by the *Public Health (COVID-19 Border Control) Order 2020* as amended and in force from time to time.

**Note.** The *Public Health (COVID-19 Border Control) Order 2020* imposes restrictions on persons travelling to New South Wales from Victoria.

#### 3 Definitions

- (1) In this Order—

**Commissioner of Police**—

- (a) means the Commissioner within the meaning of the *Police Act 1990*, and
- (b) includes a member of the NSW Police Force to whom the Commissioner has delegated functions under section 31 of that Act.

**employer** of a person who is a member of the crew of a vessel means a person who employs or otherwise engages the crew member to assist with the operation of the vessel.

**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.

**full day** means a period of 24 hours commencing at 12.00 am and ending at 12.00 am on the following day.

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

**quarantine facility** has the same meaning as in the *Public Health (COVID-19 Air Transportation Quarantine) Order (No 2) 2020*.

**quarantine period** means, for a person arriving in New South Wales, the period—

- (a) starting when the person disembarks from the vessel on which the person arrived in New South Wales, and
- (b) ending when the sooner of the following occurs—
  - (i) at least 14 full days have passed and, having regard to any testing carried out by or on behalf of NSW Health, the Chief Health Officer is satisfied that the person does not pose a risk of infecting any other person with COVID-19,
  - (ii) 24 full days have passed.

**relevant person**—see clause 5(1).

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

**vessel** has the same meaning as in the *Ports and Maritime Administration Act 1995* but does not include a vessel owned and operated by the Commonwealth.

**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.

**Note.** Section 128 of the *Public Health Act 2010* provides for the delegation of the Chief Health Officer's functions.

#### 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 and responding to international outbreaks of COVID-19, also known as Novel Coronavirus 2019,
- (b) COVID-19 is a potentially fatal condition and is also highly contagious,
- (c) a number of cases of individuals with COVID-19 have now been confirmed in New South Wales, as well as other Australian jurisdictions.

## Part 2 Quarantine

### 5 Directions—persons arriving in NSW on a vessel

- (1) The Minister directs that a person (a **relevant person**) who has arrived in New South Wales on a vessel that has come from a port outside of New South Wales must not disembark from the vessel unless the person—
  - (a) is authorised to do so by the Commissioner of Police, or
  - (b) is required to do so because of an emergency.
- (2) The Minister directs that a relevant person who is authorised to disembark from a vessel must do one of the following as directed by the Commissioner of Police—
  - (a) go directly to a quarantine facility specified by the Commissioner of Police,
  - (b) go directly to a hospital or other medical facility for treatment,
  - (c) go directly to an airport or another vessel in order to immediately leave New South Wales,
  - (d) undertake an essential task in accordance with clause 5A before re-boarding the vessel.
- (3) The Minister directs that a person subject to a direction of the Commissioner of Police under subclause (2)(a)–(c) must comply with any direction of the Commissioner of Police in relation to the person’s transit at the port or travel to the—
  - (a) quarantine facility, or
  - (b) hospital or other medical facility, or
  - (c) airport or other vessel.
- (4) The Minister directs that a person required to go to a quarantine facility or hospital or other medical facility under subclause (2) must remain at the quarantine facility or hospital or other medical facility as directed by the Commissioner of Police (or another quarantine facility or hospital or other medical facility as directed by the Commissioner of Police) during the quarantine period unless—
  - (a) the Commissioner directs otherwise, or
  - (b) there is an emergency that requires the person to leave the quarantine facility or hospital or other medical facility.
- (5) The Minister directs that the employer of a person must—
  - (a) arrange appropriate transportation for the person for any travel under this clause to the—
    - (i) quarantine facility, or
    - (ii) hospital or other medical facility, or
    - (iii) airport or other vessel, and
  - (b) provide the person with a face mask, and
  - (c) take reasonable steps to ensure that the person wears a face mask while—
    - (i) travelling under this clause, and
    - (ii) waiting at an airport to leave New South Wales.
- (6) In this clause—

**appropriate transportation** excludes any form of public transportation, including taxi services and passenger services within the meaning of the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016*.

**5A Direction—persons disembarking from vessels to undertake essential tasks**

The Minister directs that a person who is authorised by the Commissioner of Police to disembark from a vessel to undertake an essential task must—

- (a) remain at the closest distance reasonably possible to the vessel necessary to carry out the essential task and in any event remain within 13 metres from the wharf the vessel is docked at, or such further distance permitted by the Commissioner of Police, unless it is an emergency, and
- (b) take reasonable steps to ensure the person is not exposed to COVID-19 and to minimise the risk of the spread of COVID-19, including wearing suitable personal protective equipment which at a minimum is—
  - (i) gloves, and
  - (ii) a face mask, and
- (c) return to the vessel immediately after completing the task, and
- (d) comply with any direction of the Commissioner of Police in relation to disembarking, carrying out the task and re-boarding the vessel.

**5B Directions—COVID-19 safety plans**

- (1) The Minister directs that a person who is the occupier of a wharf at which a vessel is docked must—
  - (a) develop and comply with a COVID-19 safety plan that addresses the matters required by the COVID-19 safety checklist for maritime operations, and
  - (b) keep a copy of the COVID-19 safety plan on, or in reasonable proximity to, the wharf and make it available for inspection by an authorised officer or police officer as requested.
- (2) The Minister directs that the master of a vessel that is docked at a wharf must—
  - (a) develop and comply with a COVID-19 safety plan that addresses the matters required by the COVID-19 safety checklist for maritime operations, and
  - (b) keep a copy of the COVID-19 safety plan on the vessel and make it available for inspection by an authorised officer or police officer as requested.
- (3) In this clause, *COVID-19 safety checklist for maritime operations* means the COVID-19 safety checklist for maritime operations approved by the Chief Health Officer on 3 August 2020 and published on the New South Wales Government website ([www.nsw.gov.au](http://www.nsw.gov.au)).

**6 Directions—persons boarding and disembarking from vessels**

- (1) The Minister directs that the following persons are the only persons authorised to board, and subsequently disembark from, a vessel on which there is a relevant person—
  - (a) a person who is required to board the vessel to assist the vessel to dock or depart,
  - (b) a person who is required to board the vessel to assist in refuelling or restocking the vessel,
  - (c) a person who is required to board the vessel to assist in loading or unloading cargo,
  - (d) a person who is required to board the vessel to exercise border security, customs or quarantine functions,
  - (e) a medical practitioner or other health practitioner who is required to board the vessel to provide medical treatment or testing to a person on board the vessel,

- (f) a person who is involved in the enforcement of this Order,
  - (g) a person who is required to board the vessel in an emergency,
  - (h) a person who is required to board the vessel to repair or maintain the vessel,
  - (i) a person who is required to board the vessel in the person's capacity as a ship agent or ship classification surveyor,
  - (j) a member of staff of the operator of a terminal who is required to board the vessel to undertake ship to shore requirements,
  - (k) an Australian Maritime Safety Authority inspector,
  - (l) a person who is conducting an inspection for or on behalf of a regulator or a verification and audit body that is recognised by the shipping industry,
  - (m) a union official,
  - (n) a cargo surveyor,
  - (o) a person exercising insurance functions.
- (2) The Minister directs that, despite subclause (1), a person is not authorised to board, or disembark from, a vessel if the Commissioner of Police directs in a particular case that the person should not board or disembark from the vessel.
- (3) The Minister directs that a person who boards a vessel under subclause (1) must take reasonable steps to ensure the person is not exposed to COVID-19.

#### **7 Direction—advice provided by Chief Health Officer**

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

#### **8 Exemption**

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

## Part 3 Repeal and savings provisions

### 9 Repeal of Order

The *Public Health (COVID-19 Maritime Quarantine) Order 2020* is repealed on the commencement of this Order.

### 10 Savings

- (1) If, immediately before the commencement of this Order, a person was the subject of a quarantine order under the repealed Order, that quarantine period continues under this Order as if the repealed Order remained in force.
- (2) If, immediately before the commencement of this Order, a designation or direction made by the Commissioner of Police under the repealed Order was in force, that designation or direction continues as if it were made under this Order.
- (3) If, immediately before the commencement of this Order, an exemption granted by the Minister under the repealed Order was in force, that exemption continues as if it were granted under this Order.
- (3A) If, immediately before the commencement of this Order, a delegation by the Commissioner of Police under the repealed Order was in effect, that delegation has effect as if it were made for the purposes of this Order.
- (4) In this clause—  
*repealed Order* means the *Public Health (COVID-19 Maritime Quarantine) Order 2020*.

### 11 Transitional arrangement for Public Health (COVID-19 Air Transportation and Maritime Quarantine) Amendment Order (No 2) 2020

To remove any doubt, the definition of *quarantine period* in clause 3(1), as inserted by the *Public Health (COVID-19 Air Transportation and Maritime Quarantine) Amendment Order (No 2) 2020* (the *Amendment Order*), applies to a person who was subject to a direction under clause 5(2) immediately before the commencement of the Amendment Order.