



New South Wales

# Public Health (COVID-19 General) Order (No 2) Amendment (No 3) Order 2021

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 December 2021.

BRAD HAZZARD, MP  
Minister for Health

## Explanatory note

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

- (a) generally require fitted face coverings to be worn in indoor areas, with certain exceptions, and
- (b) require QR code check-in in retail premises and hospitality venues, and
- (c) provide for no more than 1 person per 2 square metres of space in indoor areas of hospitality venues and nightclubs.

## **Public Health (COVID-19 General) Order (No 2) Amendment (No 3) Order 2021**

under the

Public Health Act 2010

### **1 Name of Order**

This Order is the *Public Health (COVID-19 General) Order (No 2) Amendment (No 3) Order 2021*.

### **2 Commencement**

This Order commences—

- (a) for Schedule 1[2], [3] and [6]—at the beginning of 24 December 2021, and
- (b) otherwise—at the beginning of 27 December 2021.

## Schedule 1 Amendment of Public Health (COVID-19 General) Order (No 2) 2021

### [1] Clause 4A

Insert after clause 4—

#### 4A Calculation of spaces available for persons

- (1) An excluded person is not to be counted for the purposes of calculating—
  - (a) the space available for persons on the premises, or
  - (b) the number of persons on the premises.
- (2) An area that is not open to the public is not to be counted for the purposes of calculating the space available for persons on premises.
- (3) In this clause—

***excluded person*** means—

  - (a) a person engaged in work on the premises for the occupier of the premises, or
  - (b) a person on the premises because of an emergency, or
  - (c) for food and drink premises—a person ordering or collecting food or drink to consume off the premises.

### [2] Clause 6

Omit the clause. Insert instead—

#### 6 Fitted face coverings

- (1) A person who is over 12 years of age must wear a fitted face covering while the person is—
  - (a) in an indoor area of premises other than a place of residence, or
  - (b) in an indoor area on common property for residential premises, or
  - (c) at a public transport waiting area or in a vehicle or vessel being used to provide a public transport service, or

**Note—** A public transport service includes a taxi and rideshare service.

  - (d) working at a hospitality venue and dealing directly with members of the public, or
  - (e) on a domestic commercial aircraft, including when the aircraft is flying above New South Wales.
- (2) The operator of a hospitality venue must ensure all persons working at the venue comply with subclause (1)(d).
- (3) The following persons must ensure a worker who carries out work at an airport complies with this Part 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 a subcontractor.
- (4) The fitted face covering must be worn so that it covers the person's nose and mouth.

**[3] Clause 7 Exceptions for certain persons**

Omit clause 7(3). Insert instead—

- (3) A person may remove a fitted face covering the person is otherwise required to wear if the person is—
- (a) eating or drinking, or
  - (b) engaging in physical exercise, or
  - (c) communicating with a person who is deaf or hard of hearing, or
  - (d) engaging in work if—
    - (i) wearing the covering is a risk to the person's, or another person's, health and safety, or
    - (ii) enunciation or visibility of the person's mouth is essential, or
    - (iii) the work is in an indoor area and no other person is in the area, or
  - (e) requested to remove the covering as part of an identity check, or
  - (f) required to remove the covering—
    - (i) because of an emergency, or
    - (ii) for the proper provision of goods or a service, or
  - (g) in a vehicle and no other person is in the vehicle other than a member of the person's household, or
  - (h) in a hotel, motel or other accommodation facility as a guest and is in the person's own room, or
  - (i) in a school as a student, or
  - (j) in a public hospital or private health facility as a patient, or
  - (k) in a residential aged care facility as a resident, or
  - (l) in a correctional centre or other place of custody, or
  - (m) in the process of getting married.

**[4] Clause 10 Registration of contact details for entry to certain premises**

Omit clause 10(1)(a). Insert instead—

- (a) hospitality venues,
- (a1) nightclubs,
- (a2) retail premises,

**[5] Clause 13A**

Insert after clause 13—

**13A Hospitality venues and nightclubs**

An occupier of premises that are a hospitality venue or nightclub must not allow more persons in an indoor area on the premises than the number of persons equal to 1 person per 2 square metres of space in the area.

**[6] Schedule 1 Dictionary**

Insert the following definitions in alphabetical order—

*common property* means—

- (a) common property within the meaning of the *Strata Schemes Development Act 2015*, or

- (b) association property within the meaning of the *Community Land Development Act 2021*, or
- (c) in relation to premises under company title, a part of the premises—
  - (i) used as common property by the residents of the premises, or
  - (ii) that no person has an exclusive right to occupy

**correctional centre** has the same meaning as in the *Crimes (Administration of Sentences) Act 1999*, and includes a detention centre within the meaning of the *Children (Detention Centres) Act 1987*.

**private health facility** has the same meaning as in the *Private Health Facilities Act 2007*.

**public hospital** has the same meaning as in the *Health Services Act 1997*.

**[7] Schedule 1, note**

Insert in alphabetical order—

**retail premises** means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following—

- (a) (Repealed)
- (b) cellar door premises,
- (c) food and drink premises,
- (d) garden centres,
- (e) hardware and building supplies,
- (f) kiosks,
- (g) landscaping material supplies,
- (h) markets,
- (i) plant nurseries,
- (j) roadside stalls,
- (k) rural supplies,
- (l) shops,
- (la) specialised retail premises,
- (m) timber yards,
- (n) vehicle sales or hire premises,

but does not include highway service centres, service stations, industrial retail outlets or restricted premises.

**school** means a government school or non-government school within the meaning of the *Education Act 1990*.