

## Restrictions on gathering and movement and mandatory quarantine at designated facilities

New public health orders make quarantine for new arrivals mandatory and require people who are home to stay at home in most circumstances. Familiarity with the new orders will assist agencies to continue to operate during the COVID-19 pandemic while complying with the new restrictions.

A new order under the *Public Health Act 2010* directs people to stay at home unless they have a reasonable excuse to leave and restricts public gatherings to 2 people. Failure to comply is an offence.

Other new orders require all people arriving in New South Wales on a vessel or by aircraft to go directly to a quarantine facility for 14 days or to a medical facility for treatment.

### KEY POINTS

- ▶ The *Public Health (COVID-19 Restrictions on Gathering and Movement) Order 2020* requires people to stay at their place of residence unless they have a reasonable excuse for leaving.
- ▶ There are exemptions for activities including travelling for the purposes of work if the person cannot work from home, undertaking legal obligations and accessing public services.
- ▶ The restrictions on public gatherings do not apply to gatherings for the purpose of work, to provide emergency assistance or to fulfil a legal obligation.
- ▶ Agencies should check the currency of orders made under the *Public Health Act* before relying on them as they are changing frequently.

### People ordered to stay home in most circumstances

The *Public Health (COVID-19 Restrictions on Gathering and Movement) Order 2020* commenced on 31 March 2020. It revokes the *Public Health (COVID-19 Gathering) Order (No 3) 2020*, which was made on 26 March 2020. The new order directs that a person must not leave his or her place of residence without reasonable excuse: cl. 5. The order specifies activities that are still allowed. Relevantly for agencies, these include travelling for work, but only if the person cannot work from home (Sch. 1, cl. 2), undertaking any legal obligations (Sch. 1, cl. 11), accessing public services including social services, employment services, domestic violence services, mental health services and services provided to victims (Sch. 1, cl. 12) and for emergencies or compassionate reasons (Sch. 1, cl. 16).

The order also prohibits gatherings of more than 2 people in a public place. Again, there are specified exclusions, but these are quite limited. Relevantly for agencies, these include gathering for work or volunteering (cl. 3(1) and 6(2)(b)) and gathering where necessary to fulfil a legal obligation, including attending a court or tribunal or participating in legal proceedings (cl. 6(2)(i)).

Failure to comply with these directions is an offence, provided the person who is subject to the direction has notice of it. Failure to comply with a direction is not an offence if the person who is subject to it has a reasonable excuse: *Public Health Act*, s. 10.

### New information sharing provision

The *Public Health (COVID-19 Restrictions on Gathering and Movement) Order* contains a new information sharing provision that is broader than the provision contained in the now revoked *Public Health (COVID-19 Gatherings) Order (No 2) 2020*. Under the new provision (cl. 9):

- Ministers as well as government sector agencies are authorised to share information
- Agencies are authorised to "use" as well as collect and disclose information
- NSW agencies and Ministers are allowed to exchange information with agencies and Ministers of the Commonwealth and of other States and Territories.

The threshold for sharing information remains the same; it must be necessary for the purpose of protecting the health or welfare of members of the public during the COVID-19 pandemic.

The information sharing provision will not apply in all circumstances and agencies should take care to ensure that it is current and that it applies to the proposed information handling before relying on it.

### Mandatory quarantine orders

The *Public Health (COVID-19 Maritime Quarantine) Order 2020* commenced on 28 March 2020 and the *Public Health (COVID-19 Air Transportation Quarantine) Order 2020* commenced on 29 March 2020. They replace the *Public Health (COVID-19 Quarantine) Order 2020*, made on 16 March 2020, which has been revoked.

Under the *Public Health (COVID-19 Maritime Quarantine) Order*, a person who arrives by vessel generally must not disembark unless authorised by the Commissioner of Police and must go directly to a specified quarantine facility for 14 days or to a medical facility for treatment: cl. 4. There are restrictions on who can board such a vessel: cl. 5.

Under the *Public Health (COVID-19 Air Transportation Quarantine) Order*, a person who arrives by aircraft who has been in another country generally must go directly to a specified quarantine facility for 14 days or to a medical facility for treatment: cl. 5.

The new orders go much further than the previous one, which permitted a person arriving from overseas to reside at "suitable" premises and to leave those premises during the quarantine period if able to avoid close contact with other persons.

### Consider currency of information

Some orders made under the *Public Health Act* have only been in force for a matter of days before being revoked and replaced with different orders. Agencies should check the currency of orders before relying on them as they are changing frequently.

### Information for staff and others

The Department of Premier and Cabinet has information on its website about the latest orders which may be useful to provide to staff and other people affected by the new restrictions and exemptions:

<https://preview.nsw.gov.au/covid-19/public-health-orders>.

If it is not clear whether a particular provision applies in your agency's circumstances, consider seeking advice.

Orders made under the *Public Health Act* frequently include a provision enabling the Minister to grant an exemption: see *Public Health (COVID-19 Restrictions on Gathering and Movement) Order*, c. 10, *Public Health (COVID-19 Maritime Quarantine) Order*, cl. 7 and *Public Health (COVID-19 Air Transportation Quarantine) Order*, cl. 9. If your agency is unable to continue to operate while complying with orders under the *Public Health Act*, you may wish to consider seeking an exemption from the Minister.

## CONTACT



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