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NSW public health restrictions to deal with the COVID-19 pandemic: A chronology

In response to the global COVID-19 pandemic, the NSW Government imposed public health restrictions to prevent the spread of the virus in the community. These included requirements for self-isolation, limits on gathering and movement (including the sixweek public lockdown), restrictions on businesses, and controls on entry into NSW. The restrictions were introduced by orders made by the NSW Minister for Health and Medical Research under section 7 of the *Public Health Act 2010*.

The first NSW COVID-19 public health order was made on 15 March 2020 and limited public events to 500 persons. Since then, the Minister has made, extended and amended around 70 public health orders. This issues backgrounder provides a chronology and summary of all public health orders made up to 31 October 2020. The chronology was compiled by the NSW Ombudsman's office, which has been tracking the orders since the start of the pandemic in order to support its work responding to enquiries and complaints from members of the public.

This report is published in a partnership between the NSW Parliamentary Research Service and the NSW Ombudsman's office.

For a summary of current public health orders, see <u>NSW Health - Public Health Orders</u> <u>and restrictions</u>, [website]. For links to current orders and other COVID-19 legislation, see <u>Legislation NSW - COVID-related legislation</u>, [website].

Other COVID-19 publications by Australian parliamentary research services include:

- Victorian Parliamentary Library, <u>Emergency Powers, Public Health and COVID-19</u>, Research Paper 2/2020, August 2020.
- NSW Parliamentary Research Service, <u>NSW and Commonwealth Government funding responses to the COVID-19 pandemic</u>, Issues Backgrounder 3/2020, August 2020.
- Commonwealth Parliamentary Research Service, <u>COVID Publications and Resources</u>, [website].

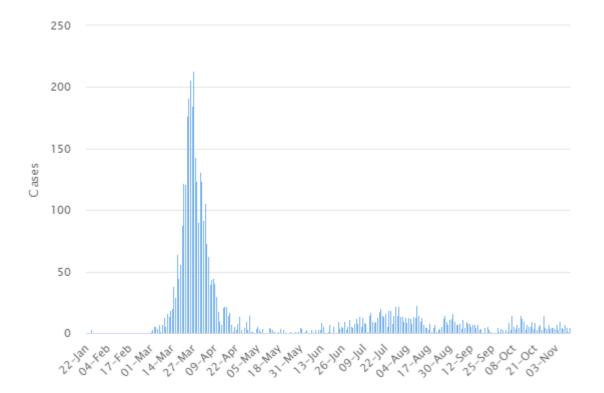
This issues backgrounder is structured as follows:

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1. NSW COVID-19 STATISTICS

The NSW Government's <u>website</u> has a range of NSW COVID-19 statistics including the chart below on the number of new cases of COVID-19 by notification date. These statistics help to provide context for the public health restrictions.

Figure 1: Number of new cases of COVID-19 in NSW by notification date



2. POWER TO MAKE PUBLIC HEALTH ORDERS

Section 7 of the *Public Health Act 2010* states:

7 Power to deal with public health risks generally

- (1) This section applies if the Minister considers on reasonable grounds that a situation has arisen that is, or is likely to be, a risk to public health.
- (2) In those circumstances, the Minister—
- (a) may take such action, and
- (b) may by order give such directions,

as the Minister considers necessary to deal with the risk and its possible consequences.

- (3) Without limiting subsection (2), an order may declare any part of the State to be a public health risk area and, in that event, may contain such directions as the Minister considers necessary—
- (a) to reduce or remove any risk to public health in the area, and
- (b) to segregate or isolate inhabitants of the area, and
- (c) to prevent, or conditionally permit, access to the area.
- (4) An order must be published in the Gazette as soon as practicable after it is made, but failure to do so does not invalidate the order.
- (5) Unless it is earlier revoked, an order expires at the end of 90 days after it was made or on such earlier date as may be specified in the order.

. . .

It is noted that (unlike similar powers under section 8 of the *Public Health Act 2010*) the power to make orders under section 7 does not require a 'state of emergency' to have been declared under the <u>State Emergency and Rescue Management Act 1989</u>. In New South Wales, no state of emergency has been declared in relation to the COVID-19 pandemic. The Public Health Orders set out in this brief are not disallowable statutory rules within the <u>Interpretation Act 1987</u>, and are not required to be tabled before the Houses of Parliament under that Act.

It is an offence under section 10 for a person who fails to comply with a direction without reasonable excuse. For an individual, the maximum penalty is 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 are liable for a maximum fine of \$55,000 and \$27,500 each day the offence continues. Under clause 100 of the <u>Public Health Regulation 2012</u>, a penalty notice may be issued for this offence - for most offences, the fine is \$1,000 for individuals and \$5,000 for corporations: Schedule 4.

At the time of writing, there is limited data on the number of fines or convictions for an offence under section 10 for breaching a COVID-19 public health order. In response to a parliamentary question on notice, the NSW Minister for Finance and Services advised that as at 31 August 2020, 1,554 fines had been issued for breaches of the Public Health (COVID-19 Restrictions on Gathering and Movement) Order 2020. A media article on 20 September 2020 reported that NSW hospitality businesses had been issued with 150 fines worth \$658,000 since April. As at 16 November 2020,

public health orders under s 11 of the *Public Health Act 2010* had been made closing five premises temporarily to the public for breaching applicable public health restrictions and requirements.

3. CHRONOLOGY OF PUBLIC HEALTH ORDERS

Date#	Summary of restrictions	Public health order*
16/3	Limit on public events to 500 persons.	2020-048 (COVID-19 Public Events).pdf
17/3	Requirement to self-quarantine for persons who had been in another country in previous 14 days.	2020-049 (COVID-19 Quarantine).pdf
18/3	Public gatherings restricted to 500 persons outdoors and 100 persons indoors unless an essential or exempted gathering.	2020-050 (COVID-19 Mass Gatherings).pdf
21/3	Social distance requirement introduced for public gatherings.	2020-053 (COVID-19 Gatherings).pdf
22/3	Access to Lord Howe Island is restricted.	2020-053 (COVID-19 Lord Howe Island)
23/3	Significant classes of public premises and businesses are closed or restricted to the public. Food and drink premises restricted to operating on a takeaway basis only.	2020-054 (COVID-19 Places of Social Gathering).pdf
24/3	Access to residential aged care facilities is restricted. Visitors allowed for care and support (1 visit per day limited to 2 hours), and end of life support only. Young persons under 16 years are not allowed to visit.	2020-055 (COVID-19 Residential Aged Care Facilities) Order.pdf
26/3	 More non-essential public venues and businesses are closed altogether to the public. Restrictions are placed on weddings and funerals conducted in places of public worship, community sporting activities as well as other activities. Social distancing requirements are imposed more broadly. Authorises government agencies to collect and disclose personal and health information if necessary for health and welfare purposes during the pandemic. 	2020-057 (COVID-19 Gatherings) Order (No 2) 250320.pdf 2020-059 (COVID-19 Gatherings) Order (No 3).pdf

^{*} This is the date that the order commenced.
* The numbers in the hyperlinks (e.g. 2020-048) refer to the relevant NSW Government Gazette that the public health orders were published in.

Date#	Summary of restrictions	Public health order*
26/3	Persons diagnosed with COVID-19 are required to self-isolate or go to hospital.	2020-057 (COVID-19 Self- Isolation).pdf
28/3	Mandatory hotel quarantine of persons arriving from outside NSW by sea commences.	2020-061 (COVID-19 Maritime Quarantine) Order.pdf
29/3	Mandatory hotel quarantine of persons arriving from outside NSW by air commences.	2020-062 (COVID-19 Air Transportation Quarantine).pdf
28/3	Allows release of unaccompanied child from airport to parents or guardians for 14 days isolation.	Exemption to Air Transportation Quarantine Order
29/3	Transitional – clarifies persons already in quarantine to complete quarantine period.	2020-063 (COVID-19 Air Transportation Quarantine) Amendment.pdf
31/3	 General public lockdown requiring persons to stay at home except where reasonable excuse. Public gatherings limited to 2 persons. Places of public worship closed to public except for weddings (5 person limit) and funeral services (10 persons). 	2020-065 (COVID-19 Restrictions on Gathering and Movement) Order.pdf
3/4	Clarifies calculation of mandatory quarantine period.	2020-071 (COVID-19 Air Transportation and Maritime Quarantine) Amendment.pdf
4/4	 Facilitates streaming and recording of religious services. Food and drink exception for truck stops and drivers. 	2020-072 (COVID-19 Restrictions on Gathering and Movement) Amendment.pdf
8/4	Allows crew to disembark to undertake essential vessel work, and other public officials (including union officials) to board.	Exemption to Maritime Quarantine Order
9/4	Order prohibiting intentionally spitting or coughing at public officers to cause fear of COVID-19 infection.	2020-077 (COVID-19 Spitting and Coughing) Order.pdf
20/4	Prohibition on intentionally spitting or coughing extended to protect all workers.	2020-084 (COVID-19 Spitting and Coughing) Amendment .pdf
1/5	Allows certain closed businesses (spas, nail, beauty, waxing and tanning salons) to open to sell goods but not services.	Exemption from Gatherings Order

Date#	Summary of restrictions	Public health order*
1/5	Reasonable excuse to leave residence extended to visits to provide care and support to another. Limit of 2 visitors at a time.	2020-094 (COVID-19 Restrictions on Gathering and Movement) Amendment Order (No 2).pdf
9/5	Reasonable excuse to leave residence extended to real estate purposes related to sale or lease.	2020-096 (COVID-19 Restrictions on Gathering and Movement) Amendment (Real Estate).pdf
15/5	 General public lockdown lifted. Public gatherings limit increased to 10 persons. Persons allowed on premises limited to 500 outdoors and 100 indoors or less if required to maintain social distance requirements. A number of businesses remain closed to the public. The restriction to takeaway for food and drink premises is lifted, but limited to 10 persons on premises at a time. Certain public recreational facilities reopen on restricted basis. A limit of 5 visitors to a place of residence introduced. Prohibition on holidays in regional areas continued. Employers required to allow working at home where reasonably practicable. Limit on weddings (10) and funeral services (20 indoors and 30 outdoors) increased, and religious services also permitted with limit of 10. Requirements to provide contact information introduced. 	2020-099 (COVID-19 Restrictions on Gathering and Movement) Order (No 2).pdf
19/5	Provides different physical spacing requirements for recreational vessels.	Exemption from Gatherings Order
1/6	 Further easing of public health restrictions; businesses allowed to open on conditions including having a COVID-19 safety plan. Individual group 	2020-113 (COVID-19 Restrictions on Gathering and Movement) Order (No 3).pdf

Date#	Summary of restrictions	Public health order*
	 limits of 10 imposed for certain premises in addition to a cap on total numbers on premises. Limit on number of persons attending weddings (20) and funeral services (50) and religious services increased (50), and post service gatherings permitted. Requirements to provide contact information continued. Limit on visitors to place of residence also continued. 	
13/6	The size of individual customer groups for businesses increased to 20. The number of permitted visitors to residences also increased to 20.	2020-123 (COVID-19 Restrictions on Gathering and Movement) (No 3) Amendment.pdf
18/6	Restrictions on access to Lord Howe Island continued.	2020-124 (COVID-19 Lord Howe Island) Order (No 2).pdf
22/6	Exemption for ski resort premises from 500 person outdoor cap subject to conditions.	Exemption from Gatherings Order
23/6	Requirement for those diagnosed with COVID-19 to self-isolate continued.	2020-126 (COVID-19 Self- Isolation) Order (No 2).pdf
23/6	Restrictions on length and number of care and support visits to aged care facilities eased, and young persons are permitted to visit.	2020-130 (COVID-19 Aged Care Facilities) Order (No 2).pdf
25/6	Requirement for mandatory hotel quarantine of persons arriving by sea continued.	2020-131 (COVID-19 Maritime Quarantine) Order (No 2) 2020
25/6	Requirement for mandatory hotel quarantine of persons arriving by air continued.	2020-131 (COVID-19 Air Transportation Quarantine) Order (No 2) 2020
29/6	The quarantine period under mandatory air and sea public health orders amended to be at least 14 full days if the person is not a COVID-19 infection risk, but may be up to 24 full days if not able to be satisfied earlier.	2020-137 (COVID-19 Air Transportation and Maritime Quarantine) Amendment Order (No 2).pdf
1/7	 The limit on public gatherings is increased to 20 persons. Further easing of business restrictions, with conditions requiring in most cases 	2020-139 (COVID-19 Restrictions on Gathering and Movement) Order (No 4).pdf

Date#	Summary of restrictions	Public health order*
Date	 that there be a COVID-19 safety plan. The overall limit on number of persons able to be on premises is lifted, and restricted to only what is necessary to ensure social distancing. Individual group limits lifted. Larger recreational premises and business permitted to reopen. Restrictions on community sporting activities eased. 	T ubile fiealth order
2/7	Persons who have been in a COVID-19 hotspot in Victoria recently are barred from entering NSW, except for NSW residents who must self-isolate on return.	2020-141 (COVID-19 Interstate Hotspots) Order 2020.pdf
7/7	Order prohibiting intentionally spitting or coughing at workers to cause fear of COVID-19 infection is continued.	2020-146 (COVID-19 Spitting and Coughing) Order (No 2).pdf
4/7	Adds areas to interstate hotspots order.	2020-147 (COVID-19 Interstate Hotspots) Amendment Order.pdf*
7/7	Adds areas to interstate hotspots order.	2020-148 (COVID-19 Interstate Hotspots) Amendment Order (No 2).pdf
8/7	 Border restrictions extended to bar persons who have been anywhere in Victoria recently from entering NSW, except for certain reasons. Permit system is introduced requiring most persons seeking entry from Victoria to apply for a permit to enter, including border community residents. Health enforcement officers empowered to require information to determine if a person may enter. 	2020-149 (COVID-19 Border Control) Order 2020.pdf
9/7	Exemption allowing NSW residents to return from Victoria in limited circumstances.	Exemption from Border Control Order

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^{*} Note that this order was made under section 7 by Dr Kerry Chant, Chief Health Officer, NSW Health, as delegate of the Minister for Health and Medical Research in accordance with section 21 of the <u>Health Administration Act 1982</u>.

Date#	Summary of restrictions	Public health order*
14/7	Allows gatherings of more than 500 persons for Netball associations, subject to specified distancing requirements.	Exemption from Gatherings Order
17/7 18/7	Pubs are restricted to total number of persons on premises to 300 and individual groups limits of 10. All persons on premises must provide their individual contact details. Pubs must have and register COVID-19 safety plans.	2020-155 (COVID-19 Restrictions on Gathering and Movement) Order (No 4) Amendment.pdf
22/7	 Travel within border community areas (now "border zones") limited to certain permitted purposes. Permits to enter for education reasons extended to day school students. 	2020-157 (COVID-19 Border Control) Amendment Order .pdf
22/7	Significant changes introduced to existing permits classes and conditions. All existing permits of persons outside NSW are effectively cancelled, and persons are required to apply for new permits.	2020-158 (COVID-19 Border Control) Amendment (Border Community).pdf
23/7	Requirement to self-isolate extended to persons who have had contact with COVID-10 diagnosed persons, and identified as at risk of developing COVID-19.	2020-162 (COVID-19 Self- Isolation) Order (No 3).pdf
24/7 25/7	 The pub limits on total and group numbers on premises (as well as enhanced contact details and safety plan requirements) are extended to hospitality venues. Venues must also ensure patrons remain seated so far as practicable and have safety marshals. A limit on the number of persons attending significant events is introduced. 	2020-160 (COVID-19 Restrictions on Gathering and Movement) Order (No 4) Amendment Order (No 2) .pdf
24/7	Adds permit to allow care for vulnerable persons in border zone.	2020-163 (COVID-19 Border Control) Amendment (Vulnerable Persons).pdf
25/7	Travel from NSW to Victoria generally for medical or hospital services is limited to services necessary to treat or maintain health. Permitted border travel also extended to essential care services.	2020-164 (COVID-19 Border Control) Amendment (Medical and Hospital Services).pdf

Date [#]	Summary of restrictions	Public health order*
1/8 6/8	 Electronic registration of contact details introduced. Gymnasiums are required to register COVID-19 safety plans and have safety marshals. 	2020-168 (COVID-19 Restrictions on Gathering and Movement) Order (No 4) Amendment Order (No 3).pdf
3/8	Restrictions on access to Lord Howe Island continued.	2020-167 (COVID-19 Lord Howe Island) Order (No 3).pdf
6/8	Crew permitted to disembark for essential tasks.	2020-170 (COVID-19 Maritime Quarantine) Order (No 2) Amendment Order 2020.pdf
7/8 10/8	Certain border entry permits now require persons travelling from Victoria to NSW by air be subject to mandatory hotel quarantine.	2020-174 (COVID-19 Border Control) Amendment Order (No 2).pdf
13/8	Exemption allows persons living in or near remote communities to cross the border for essential goods and services.	Exemption from Border Control Order
13/8	Temporary exemption introduced allowing ACT residents in Victoria to transit NSW to return to the ACT.	2020-176 (COVID-19 Border Control) Amendment (Transiting ACT Residents) Order 2020.pdf
18/8	New permit class to allow entry into NSW for critical service (agricultural) workers.	2020-180 (COVID-19 Border Control) Amendment Order (No 3).pdf
20/8	Exemption for Year 11 and 12 students and teachers to cross the border subject to conditions.	Exemption to Border Control Order
26/8	Party bus loophole removed.	2020-184 (COVID-19 Restrictions on Gathering and Movement) Order (No 4) Amendment Order (No 4).pdf
27/8	Exemption allowing weddings to have up to 150 persons if in places of public worship, and also provides that such places may have up to 100 person per building subject to conditions.	Exemption from Gatherings Order
31/8	Restrictions on access to Lord Howe Island continued (with exception now being made for access by transiting vessels).	2020-186 (COVID-19 Lord Howe Island) Order (No 4).pdf

Date#	Summary of restrictions	Public health order*
4/9	Single border region (rather than multiple zones) extending 50 kms each side of border.	2020-189 (COVID-19 Border Control) Amendment Order (No 4).pdf
4/9	Exempts persons holding critical service permits from self-isolation subject to certain conditions being met.	Exemption from Border Control order
11/9	Exempts students and teachers from mandatory quarantine, subject to certain conditions.	Exemption from Air Transportation Quarantine Order
12/9	Critical service agriculture permits available to work in Victoria.	2020-212 (COVID-19 Border Control) Amendment Order (No 5).pdf
14/9	 Auctions/open houses required to have and comply with a COVID-19 safety plan. Clarifies taking advance bookings for significant events over limit is permitted. Places of public worship permitted to have 100 persons per separate building for services, activities and events (excludes weddings). 	2020-212 (COVID-19 Restrictions on Gathering and Movement) Amendment (No 5).pdf
18/9	Access restrictions continued with no significant changes.	2020-214 (COVID-19 Aged Facilities) Order (No 3).pdf
17/9	Border region movement condition of permitted purpose removed.	2020-214 (COVID-19 Border Control) Amendment Order (No 6).pdf
21/9	Mandatory sea quarantine requirements continued.	2020-224 (COVID-19 Maritime Quarantine) Order (No 3) 2020.pdf
21/9	Mandatory air quarantine requirements continued.	2020-225 (COVID-19 Air Transportation Quarantine) Order (No 3) 2020.pdf
24/9	Updates required to COVID-19 safety plans for certain premises.	2020-228 (COVID-19 Restrictions on Gathering and Movement)(No 4) Amendment Order (No 6).pdf
25/9	Remaking of order prohibiting intentionally spitting and coughing on a worker.	2020-224 (COVID-19 Spitting and Coughing) Order (No 3) 2020.pdf

Date#	Summary of restrictions	Public health order*
28/9 2/10	Remakes order, eases requirement to be seated at hospitality venues, entertainment facilities seating capped at 1000/50% capacity (4 square metre rule not applied) for ticketed events.	2020-240 (COVID-19 Restrictions on Gathering and Movement) Order (No 5).pdf
25/9	Entry for agriculture related services expanded to non-critical services (including seasonal workers).	2020-227 (COVID-19 Border Control) Amendment Order (No 7).pdf
25/9	Persons from interstate may self-isolate in home state if determined to be suitable.	2020-227 (COVID-19 Self- Isolation) Amendment Order (No 3).pdf
28/9	Border control: exception made for vessels travelling on Murray River.	2020-242 (COVID-19 Border Control) Amendment Order (No 8).pdf
2/10	Lord Howe Island order repealed, and access now permitted. Subject to restrictions specified in amended gatherings order.	2020-240 (COVID-19 Lord Howe Island) Order (No 4) Repeal Order.pdf
2/10	Remakes prior border control order with no substantial changes. Existing permits continued, with easing of air travel and quarantine requirements for boarding school students.	2020-253 (COVID-19 Border Control) Order (No 2).pdf
8/10	Allows up to 50 people for funeral services despite social distancing requirements if certain conditions met.	Exemption from Gatherings Order
12/10	Exemption allowing public gatherings for musical rehearsals/performances of up to 500 people if certain conditions met.	Exemption from Gathering and Movement Order
16/10	Border control: allows persons transiting through NSW and through Victoria to NSW.	2020-263 (COVID-19 Border Control) Order (No 2) Amendment Order 2020.pdf
16/10	NZ travel bubble: persons entering from NZ not required to enter mandatory quarantine.	2020-273 (COVID-19 Air Transportation Quarantine) Order (No 3) Amendment.pdf
16/10	Halves spacing requirements for outdoor areas in hospitality venues with electronic entry recording system; updates required COVID-19 safety plans.	2020-273 (COVID-19 Restrictions on Gathering and Movement) Order (No 5) Amendment.pdf

Date#	Summary of restrictions	Public health order*
20/10	Remaking of self-isolation order; added power to direct diagnosed persons to provide contacts information for previous 28 days.	2020-276 (COVID-19 Self- Isolation) Order (No 4) 2020.pdf
23/10	 General cap on public gatherings increased to allow gatherings of 30 persons. Group limits for hospitality venues increased (30). Threshold for Covid-19 safety plan requirements for community sport events and musical rehearsals/performances increased to 30 participants. Safety marshal for gymnasiums required only where more than 20 persons. Cap in places of public worship increased to 300 persons per building subject to social spacing requirements. Religious services in other places required to have and comply with COVID-19 safety plan Outdoor public gatherings for up to 500 persons permitted for protests and demonstrations about governmental and political matters if organisers have and comply with COVID-19 safety plan 	2020-286 (COVID-19 Restrictions on Gathering and Movement) Order (No 5) Amendment Order (No 2)

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