

NEW PUBLIC (COVID-19 GENERAL) ORDER 2021

As from 11 October 2021 there is a new Public Health Order in place concerning a number of matters, but primarily the laws concerning access to Places of Residence and other public places, and additional restrictions for unvaccinated adults.

This Public Health Order is detailed, convoluted and can easily cause confusion.

It places the burden and onus on members of a household in a place of residence and occupiers of businesses in accessible public places to enforce these laws. Thus, the NSW Government has placed a heavy burden for compliance and enforcement, which means it is essential for everyone to understand this new public health order and how it may impact them on a daily basis in NSW.

I have prepared a Q & A below to assist residents in NSW with understanding this public health order:

1	Which area does it affect?	The entire state of New South Wales.
2	When does the order commence?	Monday 11 October 2021
3	How long is the order in place?	Until such time as the NSW Government notifies otherwise, however there is talk of stage 2 “Freedom Laws” due to commence in a few weeks which may change this order. Suffice to say, the order must be complied with as of 11 th October.
4	Does the order segregate vaccinated and unvaccinated adults to gain access to public places?	Yes.
5	What is an unvaccinated adult?	An adult who is more than 16 years of age and who not a “fully vaccinated person”.
6	What does it mean to be a fully vaccinated person?	<ul style="list-style-type: none"> • Vaccination evidence of 2 doses of a COVID-19 vaccine (e.g. online immunisation history statement, a COVID-19 digital certificate from the Australian immunisation Register or information displayed on the Service NSW mobile phone application); OR • A person who has a medical contraindication certificate
7	What is a public place?	Places of Residence and other premises.
8	What is a place of residence?	Includes temporary accommodation (e.g. hotel/motel accommodation or short-term rental).
9	What are the rules concerning access to a place of residence where all of the members of the household are <u>vaccinated adults</u>?	Each member over 18 MUST NOT ALLOW ACCESS TO: (a) a visitor who is an unvaccinated adult; OR (b) more than 5 visitors at any 1 time.
10	What are the rules concerning access to a place of residence where a member of the household is an <u>unvaccinated adult</u>?	Each member over 18 MUST NOT ALLOW ACCESS TO any visitor.
11	In what other situations can a visitor be refused access to a place of residence?	If another visitor at the place of residence is an unvaccinated adult; and If there are more than 4 other visitors at the place of residence.
12	Is a person who is under 12 years of age counted as a visitor?	No.
13	Is a member of a household counted as a visitor?	No.

14	Can an occupier of premises allow the premises to be used as a holiday home or a short-term rental?	No, UNLESS all person staying at the premises are from the same household OR if not from the same household, there are no more than 5 persons staying at the premises, and none of them are unvaccinated adults.
15	Are certain visitors exempted from the above provisions?	Yes. The following people are authorised to be at a place of residence where the above provisions do not apply: <ul style="list-style-type: none"> • to carry out work • to assist a person moving house • for childcare • for carer’s responsibilities • for family contact arrangements • because of an emergency • to inspect the place of residence for sale or lease • to participate in an auction
16	What premises are closed to unvaccinated adults?	<ul style="list-style-type: none"> • “higher risk premises” (defined below) • hairdressers, spas, salons, nail salons, beauty salons, waxing salons, tanning salons, tattoo parlours or massage parlours • indoor recreation facilities • public swimming pools • information and education facilities • “retail premises” BUT NOT “critical premises” (defined below)
17	What are higher risk premises?	Entertainment facilities, major recreation facilities, hospitality venues (e.g. casinos, registered clubs, pubs, small bar), places of worship, premises at which a significant event is being held
18	What are retail premises?	A place that sells items by retail including cellar door premises, food and drink premises, garden centres, hardware and building supplies, kiosks, landscaping building supplies, markets, plant nurseries, roadside stalls, rural supplies, shops, specialised retail premises, timber yards, vehicle sales or hire premises, BUT DOES NOT INCLUDE highway service centres, service stations, industrial retail outlays or restricted premises.
19	What are critical premises?	Chemists/pharmacies, garden centres and plant nurseries, hardware and building supplies, kiosks, landscaping material supplies, rural supplies, shops that predominantly sell food or drinks, pet supplies, newspapers, alcohol, maternity or baby suppliers, medical supplies, supermarkets, timber yards, vehicle hire premises; <u>Examples:</u> butchers, bakeries, fruit shops and deli’s, mobile shop repair shops, office supplies, pet <u>BUT DOES NOT INCLUDE</u> restaurants and cafes
20	Who has the onus and burden to enforce the above restrictions in public places?	The occupier of the premises above (e.g. business owners).
21	Are there any exceptions to the above?	Yes. The above provisions DO NOT APPLY to those persons who are on premises for these reasons: <ul style="list-style-type: none"> • to assist a vulnerable member of the public (e.g. food bank, homeless person)

		<ul style="list-style-type: none"> to purchase food or beverages to be consumed off the premises to attend a small funeral or memorial service (i.e. no more than 10 people) or small wedding service (e.g. no more than 5 people) to use a click and collect service (e.g. Coles, Myers, Super Cheap Auto)
22	What premises are permanently closed for now?	Amusement centres, play centres, nightclubs, sex services premises, sex on premises venues, strip clubs, public swimming pools in indoor areas.
23	Can an unvaccinated adult take a holiday outside the local government area where the adult resides?	No.
24	Can a person who resides in Greater Sydney take a holiday outside Greater Sydney?	No.
25	Can an employer make an employee work from home if unvaccinated?	Yes, unless it is not reasonably practicable to do so.
26	Can an employee choose to work from home if fully vaccinated?	Yes, an employer must allow a fully vaccinated person to work from their place of residence, if reasonably practicable.
27	Can an employee who is not fully vaccinated be prevented from attend work premises?	Yes, an employee who is not fully vaccinated must not work at a place other than employee's place of residence unless it is not reasonably practicable to do so.
28	Does this public health order apply to strata schemes and common areas within strata schemes?	Arguable not, unless common areas within a strata scheme can be or are accessible by the public. Many common areas not accessible by the public may not be caught by these provisions.
29	Are there new fitted face mask requirements under the new public health order?	Yes, the public health order requires masks to be fitted in certain situations such as, indoor areas, indoor common property areas, public transport, waiting areas for public transport, hospitality and domestic airline. Exemptions apply for those who can show they suffer a physical or mental health condition or disability that makes wearing a mask unsuitable and that person carries evidence of such a medical exemption being granted (e.g. medical certificate issued by a GP or statutory declaration of the person).
30	Can I obtain further information?	Yes, here is the link to the public health order for you to view: https://legislation.nsw.gov.au/file/Public%20Health%20(COVID-19%20General)%20Order%202021.pdf

For more information please contact Despina Priala at Priala Legal on **0755 291294** or **0400 141 269** or email us at despina@prialalegal.com.au or you can also view this segment on our YouTube channel: Despina Priala <https://www.youtube.com/channel/UCWmG7z-wlbsHY9KhFfrrWwQ>