



Victoria Government Gazette

No. S 156 Thursday 26 March 2020
By Authority of Victorian Government Printer

Public Health and Wellbeing Act 2008 Section 200

DIRECTIONS FROM DEPUTY CHIEF HEALTH OFFICER (COMMUNICABLE DISEASE) IN ACCORDANCE WITH EMERGENCY POWERS ARISING FROM DECLARED STATE OF EMERGENCY

Prohibited Gatherings Directions

I, Dr Annaliese van Diemen, Deputy Chief Health Officer (Communicable Disease), consider it reasonably necessary to protect public health to give the following directions pursuant to section 200(1)(b) and (d) of the **Public Health and Wellbeing Act 2008** (Vic.) (**PHW Act**):

1 Preamble

- (1) The purpose of these directions is to prohibit non-essential gatherings in order to limit the spread of Novel Coronavirus 2019 (**2019-nCoV**).
- (2) These directions replace the **Mass Gatherings Directions (No. 2)** given on 22 March 2020, and add two new categories of prohibited gatherings:
 - (a) social sport gatherings; and
 - (b) weddings and funerals.
- (3) These directions must be read together with the **Non-Essential Business Activity Directions** given on 25 March 2020.

2 Revocation

The Mass Gatherings Directions (No. 2) are revoked with effect from midnight on 25 March 2020.

3 Citation

These directions may be referred to as the **Prohibited Gatherings Directions**.

4 Definition of density quotient

The **density quotient** of a single undivided indoor space is the number calculated by dividing the total area of the space (measured in square metres) by 4.

Note: If an indoor space is 8.5 metres long and 4.5 metres wide, its total area is 38.25 square metres. Its density quotient is 9.56, so no more than 9 people would be permitted to be in the indoor space at one time.

5 Prohibition on mass gatherings

- (1) A person who owns, controls or operates premises in Victoria must not allow a mass gathering to occur on the premises between midnight on 25 March 2020 and midnight on 13 April 2020.
- (2) A person must not organise for a mass gathering to occur between midnight on 25 March 2020 and midnight on 13 April 2020 on premises in Victoria.
- (3) A person must not attend a mass gathering on premises in Victoria between midnight on 25 March 2020 and midnight on 13 April 2020.

6 Definition of mass gathering

- (1) Subject to subclause (2), a **mass gathering** means:
 - (a) a gathering of five hundred (500) or more persons in a single undivided **outdoor space** at the same time; or
 - (b) a gathering of one hundred (100) or more persons in a single undivided **indoor space** at the same time; or
 - (c) for the purposes of clause 5(1) and (2) only, a gathering of fewer than 100 persons in a single undivided indoor space, unless:
 - (i) the total number of persons present in the indoor space at the same time does not exceed the **density quotient**; or

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- (ii) the gathering is at a person's private residence; or
 - (iii) the gathering is in a private vehicle, or a commercial passenger vehicle within the meaning of the **Commercial Passenger Vehicle Industry Act 2017**.
- (2) A **mass gathering** does **not** include a gathering:
- (a) at an airport that is necessary for the normal business of the airport; or
 - (b) for the purposes of or related to public transportation, including in vehicles or at public transportation facilities such as stations, platforms and stops; or
 - (c) at a medical or health service facility that is necessary for the normal business of the facilities; or
 - (d) for the purposes of emergency services; or
 - (e) at a disability or aged care facility that is necessary for the normal business of the facility; or
 - (f) at a prison, correctional facility, youth justice centre or other place of custody; or
 - (g) at a court or tribunal; or
 - (h) at Parliament for the purpose of its normal operations; or
 - (i) at a food market, supermarket, grocery store, retail store or shopping centre that is necessary for the normal business of those premises; or
 - (j) at an office building, factory, mining site or construction site that is necessary for the normal operation of those premises; or
 - (k) at a school, university, educational institution or childcare facility that is necessary for the normal business of the facility; or
 - (l) at a hotel, motel or other accommodation facility that is necessary for the normal operation of accommodation services; or
 - (m) at an outdoor place where five hundred (500) or more persons may be present for the purposes of transiting through the place; or
- Example: Federation Square or Bourke Street Mall.*
- (n) specified as exempt from these directions by the Chief Health Officer or a Deputy Chief Health Officer in writing; or
 - (o) delivered by an operator who has a social distancing policy approved in writing by the Chief Health Officer or a Deputy Chief Health Officer.
- (3) For the purposes of subclause (2)(k), a school event that involves members of the community in addition to staff and students is deemed not necessary for the normal business of the facility.

Note: The intended effect of subclause (3) is that a school event that involves members of the community in addition to staff and students will be a mass gathering if it involves a gathering of five hundred (500) or more persons in a single undivided outdoor space at the same time, a gathering of one hundred (100) or more persons in a single undivided indoor space at the same time, or a gathering of fewer than 100 persons that does not meet the density requirement. School events include assemblies, sporting events or parent-teacher events.

7 Prohibition on social sport gatherings

- (1) A person must not organise for a **social sport gathering** to occur on premises in Victoria between midnight on 25 March 2020 and midnight on 13 April 2020.
- (2) A person must not attend a social sport gathering on premises in Victoria between midnight on 25 March 2020 and midnight on 13 April 2020.
- (3) A **social sport gathering** means a gathering of two or more people, who do not ordinarily reside at the same premises, for the purpose of participating in a sporting activity together.

Examples: sporting activity includes bike-riding, playing football, running, cricket, netball, etc.

8 Prohibition on weddings and funerals

- (1) A person must not organise for a wedding or funeral to be held on premises in Victoria between midnight on 25 March 2020 and midnight on 13 April 2020.
- (2) A person must not attend a wedding or funeral in Victoria between midnight on 25 March 2020 and midnight on 13 April 2020.
- (3) Subclauses (1) and (2) do not apply:
 - (a) to a wedding, which involves only:
 - (i) the two persons being married; and
 - (ii) the **authorised celebrant**; and
 - (iii) two persons witnessing the marriage for the purposes of section 44 of the **Marriage Act 1961** of the Commonwealth;
 - (b) to a funeral which involves no more than 10 persons (excluding persons necessary for the conduct of the funeral).

Note: This prohibition applies to weddings and funerals, regardless of whether they are held in an indoor space or an outdoor space.

- (4) If a wedding or funeral is held in an indoor space, the total number of persons present at the same time in the space must not exceed the density quotient.

9 Other definitions

- (1) **Authorised celebrant** has the same meaning as in the **Marriage Act 1961** of the Commonwealth.
- (2) **Indoor space** means an area, room or premises that is or are substantially enclosed by a roof and walls, regardless of whether the roof or walls or any part of them are –
 - (a) permanent or temporary; or
 - (b) open or closed.
- (3) **Outdoor space** means a space that is not an indoor space.
- (4) **Premises** has the same meaning as in section 3 of the PHW Act.

10 Prior exemptions and approvals cease to have effect

- (1) An exemption under paragraph 9(n) of the Mass Gatherings Directions (No. 2) given on 22 March 2020 ceases to have effect when those directions are revoked.
- (2) An approval of a social distancing policy given under paragraph 9(o) of the Mass Gatherings Directions (No. 2) given on 22 March 2020 does not have effect as an approval for the purposes of clause 6(2)(o) of these directions.

11 Penalties

Section 203 of the PHW Act provides:

Compliance with direction or other requirement

- (1) A person must not refuse or fail to comply with a direction given to the person, or a requirement made of the person, in the exercise of a power under an authorisation given under section 199.

Penalty: In the case of a natural person, 120 penalty units.
In the case of a body corporate, 600 penalty units.
- (2) A person is not guilty of an offence against subsection (1) if the person had a reasonable excuse for refusing or failing to comply with the direction or requirement.

Dated 25 March 2020

DR ANNALIESE VAN DIEMEN
Deputy Chief Health Officer (Communicable Disease)
as authorised to exercise emergency powers by the Chief Health Officer
under section 199(2)(a) of the PHW Act.

Public Health and Wellbeing Act 2008

Sections 190 and 200

**DIRECTIONS FROM DEPUTY CHIEF HEALTH OFFICER (COMMUNICABLE DISEASE)
IN ACCORDANCE WITH EMERGENCY POWERS ARISING FROM
DECLARED STATE OF EMERGENCY****Non-Essential Activity Directions**

I, Dr Annaliese van Diemen, Deputy Chief Health Officer (Communicable Disease), consider it necessary to eliminate or reduce the risk to public health – and reasonably necessary to protect public health – to give the following directions pursuant to sections 190(1)(a) and (g) and 200(1)(d) of the **Public Health and Wellbeing Act 2008** (Vic.) (**PHW Act**):

1 Preamble

- (1) The purpose of these directions is to prohibit the operation of non-essential businesses and undertakings in order to limit the spread of Novel Coronavirus 2019 (**2019-nCoV**).
- (2) These directions replace the **Non-Essential Business Closure Direction** given on 23 March 2020, and:
 - (a) add to the existing categories of non-essential activity;
 - (b) impose signage and cleaning requirements upon businesses and undertakings that remain open (see clause 14).
- (3) These directions must be read together with the **Prohibited Gatherings Directions** given on 25 March 2020.

2 Revocation

The **Non-Essential Business Closure Direction** is revoked with effect from midnight on 25 March 2020.

3 Citation

These directions may be referred to as the **Non-Essential Activity Directions**.

4 Pubs, bars, clubs, nightclubs and hotels

- (1) A person who owns, controls or operates a **licensed premises** in Victoria must not operate that premises between midnight on 25 March 2020 and midnight on 13 April 2020.
- (2) A **licensed premises** means a business characterised as a pub, bar, club, nightclub or hotel that supplies alcohol under a **general licence**, an **on-premises licence** or a **club licence**.
- (3) Despite subclause (1), a person who owns, controls or operates a licensed premises may operate that premises for the purposes of:
 - (a) operating a **bottleshop**; or
 - (b) providing food or drink to be consumed off the premises; or
 - (c) providing accommodation.

5 Recreational facilities

- (1) A person who owns, controls or operates a **recreational facility** in Victoria must not operate that facility between midnight on 25 March 2020 and midnight on 13 April 2020.
- (2) A **recreational facility** means any of the following, whether operated on a for profit or not-for-profit basis:
 - (a) a facility used predominantly for indoor physical recreation;

Examples: a gymnasium, indoor swimming pool, health clubs, fitness centres, yoga studio, barre and spin facility, sauna, bathhouse, wellness centre and health studio.

- (b) a facility used predominantly for outdoor physical recreation;
Examples: a mini-golf centre, tennis court, paint-ball centre, lawn bowling green, outdoor swimming pool, equestrian centre, go-kart track, rifle range and water-ski centre.
 - (c) a **personal training facility**;
 - (d) a community centre or community hall;
 - (e) a library (including a toy library);
 - (f) a gallery or a museum;
 - (g) a youth centre;
 - (h) a **play centre**.
- (3) For the purposes of this clause, a **personal training facility** means a facility at which personal training services are the predominant activity provided.
Example: boot camp.

Permitted operations – essential public service

- (4) Despite subclause (1), a person who owns, controls or operates a recreational facility may operate that facility for the purpose of hosting an essential public service (whether that service is provided on a voluntary basis or otherwise).
Examples: a food bank or service for homeless persons.

Permitted operations – personal training facilities

- (5) Despite subclause (1), a person who owns, controls or operates a personal training facility may operate that facility if its services are provided:
- (a) in an **outdoor space**; and
 - (b) to a number of persons that does not exceed the number calculated by dividing the total area of space that the service might reasonably be expected to use (measured in square metres) by 4; and
 - (c) in any case, the number of persons to whom its services are provided is not more than 10 persons at any one time.
- (6) A personal training facility operated in accordance with subclause (5) does not constitute a **social sport gathering** for the purposes of the **Prohibited Gatherings Directions**.

Permitted operations – weddings and funerals

- (7) Despite subclause (1), a person who owns, controls or operates a recreational facility may operate the facility for the purpose of a wedding or funeral, if that wedding or funeral is permitted by the **Prohibited Gatherings Directions**.
Note: the Prohibited Gatherings Directions limits the number of people who may attend a wedding (5 people) or funeral (10 people).

6 Entertainment facilities

- (1) A person who owns, controls or operates an **entertainment facility** in Victoria must not operate that facility between midnight on 25 March 2020 and midnight on 13 April 2020.
- (2) An **entertainment facility** means any of the following, whether operated on a for profit or not-for-profit basis:
- (a) a theatre;
 - (b) a cinema;
 - (c) a music hall, concert hall or auditorium;
 - (d) an arena, stadium or convention centre;
 - (e) an arcade;

- (f) an amusement park;
- (g) a **casino** or **gambling business**;
- (h) a **brothel**, strip club or other adult entertainment venue.

Permitted operations

- (3) Despite subclause (1), a person who owns, controls or operates an entertainment facility may operate that facility for the purpose of allowing a **recorded performance** to occur at the facility.
- (4) For the purposes of subclause (3), a **recorded performance** is a performance at which:
 - (a) the only persons in attendance at the facility are those necessary for the performance and the recording of that performance; and
 - (b) in any case, the number of persons in attendance at the facility does not exceed 10 at any one time.

7 Places of worship

- (1) A person who owns, controls or operates a **place of worship** in Victoria must not operate that place of worship between midnight on 25 March 2020 and midnight on 13 April 2020.

Permitted operations

- (2) Despite subclause (1), a person who owns, controls or operates a place of worship may operate that place of worship for the purpose of a wedding or funeral, if that wedding or funeral is permitted by clause 8(3) of the **Prohibited Gatherings Directions**.
Note: the Prohibited Gatherings Directions limit the number of people who may attend a wedding (5 people) or a funeral (10 people).
- (3) Despite subclause (1), a person who owns, controls or operates a place of worship may operate that facility for the purpose of hosting an essential public service (whether that service is provided on a voluntary basis or otherwise).

Examples: a food bank or service for homeless persons.

8 Non-essential retail facilities

- (1) A person who owns, controls or operates a **non-essential retail facility** in Victoria must not operate that facility between midnight on 25 March 2020 and midnight on 13 April 2020.
- (2) A **non-essential retail facility** means the following:
 - (a) a **beauty and personal care facility**;
 - (b) an auction house, other than for the purpose of conducting auctions remotely;
 - (c) a market stall, whether indoor or outdoor, other than a market stall the predominant business of which is the provision of food and drink for consumption off the premises of the market.
- (3) A **beauty and personal care facility** means the following:
 - (a) a hair salon or barber shop;
 - (b) a beauty therapy salon, tanning salon, waxing salon or nail salon;
 - (c) a spa;
 - (d) a massage parlour;
 - (e) a tattoo parlour.

Permitted operations – hair salons and barber shops

- (4) Despite subclause (1), a person who owns, controls or operates a hair salon or barber shop may operate that salon or shop if the service is provided to a single person for no more than 30 minutes at one time.

Permitted operations – delivery of goods

- (5) Despite subclause (1), a person who owns, controls or operates a non-essential retail facility may operate that facility for the purposes of providing, by delivery, goods to a person's private residence.

Markets – density

- (6) Despite anything contained in the **Prohibited Gatherings Directions**, a person who owns, operates or controls a market (including a food market) must not allow a gathering of persons for the purpose of the business of the market between midnight on 25 March 2020 and midnight on 13 April 2020, unless the total number of persons present at the market does not exceed the number calculated by dividing the total area occupied by the market (measured in square metres) by 4.

9 Food and drink facilities

- (1) A person who owns, controls or operates a **food and drink facility** in Victoria must not operate that facility between midnight on 25 March 2020 and midnight on 13 April 2020.
- (2) A **food and drink facility** means any of the following, whether operated on a for profit or not-for-profit basis:
- (a) a cafe;
 - (b) a restaurant;
 - (c) a fast-food store;
 - (d) a cafeteria;
 - (e) a canteen.

Permitted operations

- (3) Despite subclause (1), a person who owns, controls or operates a food and drink facility may operate that facility:
- (a) for the purposes of providing food or drink to be consumed off the premises; or
Note: This paragraph permits both delivery and collection of takeaway food and drink.
 - (b) if the food and drink facility is located inside a **food court**, for the purpose of providing food or drink to be consumed outside a food court; or
 - (c) if the facility is located:
 - (i) on the premises of a **hospital**, if the facility is located within an area of the hospital that has been exempted from the operation of the **Hospital Visitors Directions** pursuant to paragraph 11 of those directions;
 - (ii) on the premises of a **residential aged care facility**; or
 - (iii) on the premises of a school; or
 - (iv) on the premises of a prison, correctional facility, youth justice centre or other place of custody; or
 - (v) on land that is owned or held under lease by the Commonwealth and used, or intended for use, for the purposes of defence; or
 - (d) for the purposes of providing food or drink to homeless persons.

10 Accommodation facilities

- (1) A person who owns, controls or operates an **accommodation facility** in Victoria must not operate that facility between midnight on 25 March 2020 and midnight on 13 April 2020.

- (2) For the purposes of this clause, an **accommodation facility** means any of the following, whether operated on a for profit or not-for-profit basis:
- (a) a camping ground;
 - (b) a caravan park.

Permitted operations

- (3) Despite subclause (1), a person who owns, controls or operates an accommodation facility may operate that facility for the purposes of providing accommodation to:
- (a) a person whose place of residence is the accommodation facility; or
 - (b) a person who is ordinarily a resident of Victoria but has no permanent place of residence in Victoria; or
 - (c) a person who has a permanent place of residence in Victoria, but that place is temporarily unavailable; or
 - (d) a person, on a temporary basis, who has travelled to Victoria for work purposes; or
 - (e) a person who was a temporary guest of the accommodation facility on the date that these directions were given; or
 - (f) a person who requires emergency accommodation, including in relation to family violence and other vulnerable groups.

11 Swimming pools

A person who owns, controls or operates premises in Victoria at which there is a swimming pool must not permit any person to use the swimming pool, unless the pool is at the person's private residence and not available for communal use.

12 Animal facilities

- (1) A person who owns, controls or operates an **animal facility** in Victoria must not operate that facility for the purposes of allowing the public to visit that facility between midnight on 25 March 2020 and midnight on 13 April 2020.
- (2) An **animal facility** means the following:
- (a) a **zoological park**;
 - (b) a wildlife centre;
 - (c) a petting zoo;
 - (d) an aquarium;
 - (e) an animal farm that is not for the purpose of producing food.
- (3) Despite subclause (1), a person who owns, controls or operates an animal facility may continue to operate the facility for the purposes of:
- (a) treating or caring for animals; and
 - (b) performing an animal rescue function; and
 - (c) maintaining the facility.

13 Real estate auctions and inspections

An **estate agent** in Victoria must not organise:

- (1) any auction to take place for the sale of a **residential property**, between midnight on 25 March 2020 and midnight on 13 April 2020, unless that auction is to be conducted remotely; and
- (2) a person to inspect a **residential property** between midnight on 25 March 2020 and midnight on 13 April 2020 for the purposes of a prospective sale of the property, other than by private appointment.

14 Open retail facilities – density, signage and cleaning requirements

- (1) For the purpose of this clause:
- (a) an **open retail facility** means a **retail facility** (or part thereof) that is not prohibited from operating by these directions.
 - (b) a **retail facility** includes any facility that is used wholly or predominantly for:
 - (i) the sale or hire of goods by retail; or
 - (ii) the retail provision of services.

Density quotient

- (2) Despite anything contained in the **Prohibited Gatherings Directions**, a person who owns, operates or controls an **open retail facility** must not allow a gathering of persons (including employees) between midnight on 25 March 2020 and midnight on 13 April 2020 in a single undivided indoor space, unless the total number of persons present in the indoor space at the same time does not exceed the **density quotient**.

Note: the density quotient of a single undivided indoor space is the number calculated by dividing the total area of an undivided indoor space (measured in square metres) by 4 (see clause 4 of the Prohibited Gatherings Directions).

Signage

- (3) A person who owns, control or operates an **open retail facility**, which involves members of the public entering any single undivided **indoor space**, must display a sign at the entry to each such space that states the maximum number of people that may be present in the space at a single time is the **density quotient**, rounded down to the nearest whole number.

Cleaning

- (4) A person who owns, controls or operates an **open retail facility** in Victoria must between midnight on 25 March 2020 and midnight on 13 April 2020:
- (a) **clean** frequently touched surfaces at least twice on any given day; and
 - (b) clean any surface when visibly soiled; and
 - (c) immediately clean any surface after a spill on the surface.
- (5) To **clean** for the purposes of this clause, a person must wipe the surface with a disinfectant:
- (a) the label states a claim by the manufacturer that the disinfectant has anti-viral properties; or
 - (b) made by the person according to instructions issued by the Department of Health and Human Services.

15 Other definitions

For the purposes of these directions:

- (1) **brothel** has the same meaning as in the **Sex Work Act 1994**;
- (2) **bottleshop** means an area:
 - (a) that is physically attached to a licensed premises, as defined in clause 4(2); and
 - (b) where packaged alcohol is sold to be consumed off the premises;
- (3) **casino** has the same meaning as in the **Casino Control Act 1991**;
- (4) **density quotient**, in relation to a single undivided indoor space, has the same meaning as in the **Prohibited Gatherings Directions**;
- (5) **food court** has the same meaning as in the **Liquor Reform Control Act 1998**;
- (6) **gambling business** has the same meaning as in the **Gambling Regulation Act 2003**;
- (7) **hospital** has the same meaning as in the **Hospital Visitors Directions**;

- (8) **indoor space** has the same meaning as in the **Prohibited Gatherings Directions**;
- (9) **outdoor space** has the same meaning as in the **Prohibited Gatherings Directions**;
- (10) **pharmacy** has the same meaning as in the **Pharmacy Regulation Act 2010**;
- (11) **premises** has the same meaning as in the PHW Act;
- (12) **place of worship** has the same meaning as in the **Heritage Act 2017**;
- (13) **play centre** means a premises, whether indoor or outdoor, that has play equipment to be used predominantly by children under the age of 12 years, but does not mean play equipment in a public park;
- (14) **residential aged care facility** has the same meaning as in the **Aged Care Facilities Direction**;
- (15) **social sport gathering** has the same meaning as in the **Prohibited Gatherings Directions**;
- (16) **zoological park** has the same meaning as in the **Zoological Parks and Gardens Act 1995**;
- (17) The following expressions have the same meanings as they have in the **Liquor Control Reform Act 1998**:
 - (a) general licence;
 - (b) on-premises licence;
 - (c) club license;
- (18) The following expressions have the same meaning that they have in the **Estate Agents Act 1980**:
 - (a) estate agent;
 - (b) residential property.

16 Penalties

Section 203 of the PHW Act provides:

Compliance with direction or other requirement

- (1) A person must not refuse or fail to comply with a direction given to the person, or a requirement made of the person, in the exercise of a power under an authorisation given under section 199.

Penalty: In the case of a natural person, 120 penalty units.
In the case of a body corporate, 600 penalty units.
- (2) A person is not guilty of an offence against subsection (1) if the person had a reasonable excuse for refusing or failing to comply with the direction or requirement.

Dated 25 March 2020

DR ANNALIESE VAN DIEMEN
Deputy Chief Health Officer (Communicable Disease)
as authorised to exercise emergency powers by the Chief Health Officer
under section 199(2)(a) of the PHW Act.

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