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Public Health and Wellbeing Act 2008 Section 200

DIRECTION FROM DEPUTY PUBLIC HEALTH COMMANDER IN ACCORDANCE WITH EMERGENCY POWERS ARISING FROM DECLARED STATE OF EMERGENCY

Diagnosed Persons and Close Contacts Directions (No. 5)

I, Dr Finn Romanes, Deputy Public Health Commander, 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 require persons:
 - (a) diagnosed with Novel Coronavirus 2019 (**2019-nCoV**) to self-isolate;
 - (b) who are living with a diagnosed person, or who have been in close contact with a diagnosed person, to self-quarantine;in order to limit the spread of 2019-nCoV.
- (2) These directions replace the **Diagnosed Persons and Close Contacts Directions (No. 4)** given on 11 July 2020.

2 Citation

- (1) These directions may be referred to as the **Diagnosed Persons and Close Contacts Directions (No. 5)**.
- (2) A reference in any other direction to the **Diagnosed Persons and Close Contacts Directions (No. 4)** is taken to be a reference to these directions.

3 Commencement and revocation

- (1) These directions commence at 11:59:00 pm on 15 July 2020.
- (2) The **Diagnosed Persons and Close Contacts Directions (No. 4)** are revoked at 11:59:00 pm on 15 July 2020.

4 Self-isolation for diagnosed persons

Who is a diagnosed person?

- (1) A person is a **diagnosed person** if the person:
 - (a) at any time between midnight on 25 March 2020 and 11:59:00 pm on 19 July 2020 has been informed that they have been diagnosed with 2019-nCoV; and
 - (b) has not been given, or is not taken to have been given, **clearance from self-isolation** under clause 5.

Requirement to self-isolate

- (2) A diagnosed person must **self-isolate** under these directions:
 - (a) if the diagnosis is communicated to the person on or after the commencement of these directions; or
 - (b) if the diagnosis was communicated to the person before the commencement of these directions.

Note: the requirements of self-isolation are specified in clause 8. A diagnosed person can still leave the premises at which they are self-isolating to obtain medical care.

Location of self-isolation

- (3) A diagnosed person must self-isolate:
 - (a) if subclause (2)(a) applies, at the **premises** chosen by the person under subclause (4); or
 - (b) if subclause (2)(b) applies, at the premises at which the person was required to reside under a **Revoked Isolation Direction**.

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- (4) For the purposes of subclause (3)(a), the diagnosed person may choose to self-isolate at:
- (a) a premises at which they ordinarily reside; or
 - (b) another premises that is suitable for the person to reside in for the purpose of self-isolation.

Note 1: a person can decide to self-isolate at a hotel or other suitable location, instead of self-isolating at their ordinary place of residence.

Note 2: once a person has chosen the premises at which to self-isolate, the person must reside at that premises for the entirety of the period of self-isolation: see clause 8(2)(a).

- (5) If a diagnosed person who has chosen a premises under subclause (4) is not at the premises at the time when the choice is made, the person must immediately and directly travel to that premises, unless the person is admitted to a **hospital** or other facility for the purposes of receiving medical care.

Self-isolation period

- (6) For the purposes of subclause (2), the period of self-isolation begins:
- (a) if subclause (2)(a) applies, when the diagnosis is communicated to the person; or
 - (b) if subclause (2)(b) applies, upon the commencement of these directions.
- (7) For the purposes of subclause (2), the period of self-isolation ends when the person is given **clearance from self-isolation** under clause 5.

Notifications by the diagnosed person

- (8) Immediately after choosing a premises under subclause (4), the diagnosed person must:
- (a) if any other person is residing at the premises chosen by the diagnosed person, notify the other person that:
 - (i) the diagnosed person has been diagnosed with 2019-nCoV; and
 - (ii) the diagnosed person has chosen to self-isolate at the premises; and
 - (b) notify the Department of:
 - (i) the address of the premises chosen by the diagnosed person; and
 - (ii) the name of any other person who is residing at the premises chosen by the diagnosed person.
- (9) If, during the period that a diagnosed person is self-isolating at a premises for the purposes of clause 4, another person informs the diagnosed person that they intend to commence residing at the premises chosen by the diagnosed person:
- (a) the diagnosed person must inform the other person of their diagnosis; and
 - (b) if the other person commences residing at the premises, the diagnosed person must notify the Department that a person has commenced residing with the diagnosed person and of the name of that person.

5 Clearance from self-isolation

- (1) A diagnosed person is given **clearance from self-isolation** if:
- (a) an officer of the Department makes a determination under subclause (2) in relation to the person; and
 - (b) the person is given notice of the determination in accordance with subclause (3).
- (2) For the purposes of subclause (1)(a), an officer of the Department may make a determination in relation to a person if the officer is satisfied that the person meets the criteria for discharge from self-isolation under existing **Departmental Requirements**.
- (3) For the purposes of subclause (1)(b), the notice must be in writing but is not required to be in a particular form.

- (4) A person who has been given clearance from self-isolation, however expressed, under a Revoked Isolation Direction is taken to have been given clearance from self-isolation under this clause.

6 Self-quarantine for close contacts

Who is a close contact?

- (1) For the purposes of this clause, a person is a **close contact** if:
- (a) an officer of the Department has made a determination under subclause (2) in relation to the person; and
 - (b) between midnight on 11 May 2020 and 11:59:00 pm on 19 July 2020, the person has been given notice of the determination in accordance with subclause (3).
- (2) For the purposes of subclause (1)(a), an officer of the Department may make a determination in relation to a person if the officer is satisfied, having regard to Departmental Requirements, that the person has had close contact with another person who:
- (a) since the time of last contact, has become a diagnosed person; or
 - (b) at the time of last contact, was a diagnosed person.

Note: under the Departmental Requirements, a person is generally considered to have had close contact if, in the period extending from 48 hours before onset of symptoms in the diagnosed person:

- *they have had face-to-face contact in any setting with the diagnosed person for more than a total of 15 minutes over the course of a week; or*
- *they have shared a closed space with a diagnosed person for a prolonged period (for example, more than 2 hours).*

- (3) For the purposes of subclause (1)(b), the notice:
- (a) must specify the time (including by reference to an event) at which the person will no longer be required to self-quarantine, having regard to Departmental Requirements; and
Example: the notice could specify that a person is no longer required to self-quarantine from 14 days after a diagnosed person who the person is living with receives clearance from self-isolation.
 - (b) may be given orally or in writing, and, if given orally, must be confirmed in writing as soon as reasonably practicable; and
 - (c) is not required to be in a particular form.

Requirement to self-quarantine

- (4) A **close contact** must **self-quarantine** under these directions.

Note: the requirements of self-quarantine are specified in clause 8.

Location of self-quarantine

- (5) A close contact may choose to self-quarantine at:
- (a) a premises at which they ordinarily reside; or
 - (b) another premises that is suitable for the person to reside in for the purpose of self-quarantine.

Note 1: a person can decide to self-quarantine at a hotel or other suitable location, instead of self-quarantining at their ordinary place of residence.

Note 2: once a person has chosen the premises at which to self-quarantine, the person must reside at that premises for the entirety of the period of self-quarantine: see clause 8(2)(a).

- (6) If, at the time a person is given a notice under subclause (1)(b), the person is not at the premises chosen by the person under subclause (5), the person must immediately and directly travel to that premises.

End of self-quarantine period

- (7) For the purposes of this clause, the period of self-quarantine ends:
- (a) subject to paragraph (c), at the time specified in the notice given under subclause (1)(b) as given or as varied under subclause (9); or
 - (b) if the notice given to the person under subclause (1)(b) is revoked under subclause (9), at the time that revocation takes effect; or
 - (c) if the person becomes a diagnosed person following a test for 2019-nCoV – when the diagnosis is communicated to the person.

Note: a close contact who becomes a diagnosed person will then be required to self-isolate under clause 4, for a period ending when the person is given clearance from self-isolation under clause 5.

Exception – previous clearance

- (8) A person is not required to self-quarantine under this clause if, before the time that notice is given under subclause (1)(b), the person has been given, or is taken to have been given, clearance from self-isolation under clause 5.

Review of determination and notice

- (9) An **authorised officer**, who is authorised to exercise **emergency powers** by the Chief Health Officer under section 199(2)(a) of the PHW Act, may review a determination made under subclause (2) and, if satisfied that it is appropriate, having regard to Departmental Requirements, may vary or revoke the notice given to the person under subclause (1)(b), and must give the person notice of the authorised officer’s decision.

Transitional provision – close contacts under Revoked Isolation Directions

- (10) If a person was a close contact under a Revoked Isolation Direction:
- (a) a determination made, or taken to have been made, under the Revoked Isolation Direction in relation to the person’s status as a close contact is taken to be a determination made under subclause (2); and
 - (b) a notice given, or taken to have been given, to the person under the Revoked Isolation Direction in relation to the determination referred to in paragraph (a) is taken to be a notice given under subclause (1)(b); and
 - (c) for the purposes of subclause (5), the person is taken to have chosen to self-quarantine at the premises at which the person was required to self-quarantine under the Revoked Isolation Direction.

Note: a person who was required to self-quarantine under previous directions because they reside with a person who is, or was, a diagnosed person, are now treated as close contacts, and also continue to be required to self-quarantine for the period determined by the previous directions, unless that period is altered pursuant to subclause (9).

7 Testing of persons in self-quarantine

- (1) If a person is required to self-quarantine under clause 6 and, during the period of self-quarantine, the person:
- (a) is tested for 2019-nCoV; and
 - (b) the period for which the person is required to self-quarantine under clause 6 expires during the period in which the person is awaiting the result of that test;
- the period of self-quarantine is extended until the person receives the result of the test.

Note: persons who are in self-quarantine and experience a temperature higher than 37.5 degrees or symptoms of acute respiratory infection are encouraged to get tested. In certain circumstances, a person may be required to comply with an order that they undergo a medical test: PHW Act, section 113(3).

- (2) If a person is required to self-quarantine under clause 6 and, during the period of self-quarantine, the person receives a test result stating that they have been diagnosed with 2019-nCoV, the person becomes a diagnosed person and must self-isolate under clause 4.

- (3) If a person is required to self-quarantine under clause 6 and, during the period of self-quarantine, the person receives a test result stating that they have not been diagnosed with 2019-nCoV:
- (a) if the period for which the person is required to self-quarantine under clause 6 has not expired – must continue to self-quarantine under that clause for the remainder of that period; or
 - (b) if the period of self-quarantine was extended under subclause (1) – may cease self-quarantining.

8 Requirements of self-isolation and self-quarantine

- (1) This clause applies to a person who is required to:
- (a) **self-isolate** at a premises under clause 4; or
 - (b) **self-quarantine** at a premises under clause 6.
- (2) The person identified in subclause (1):
- (a) must reside at that premises for the entirety of the period of self-isolation or self-quarantine, as the case requires, except for any period that the person is admitted to a hospital or other facility for the purposes of receiving medical care; and
 - (b) must not leave the premises, except:
 - (i) for the purposes of obtaining medical care or medical supplies; or
 - (ii) in any emergency situation; or
 - (iii) for the purposes of exercise, but only if the person:
 - (A) takes reasonable steps to maintain a distance of 1.5 metres from any other person, unless the other person is required to self-isolate or self-quarantine at the same premises; and
 - (B) does not enter any other building; or
- Note: Where a person is unable to take reasonable steps to maintain a distance of 1.5 metres from any other person when exercising, an authorised officer may direct that person to comply with another exercise program in order to mitigate a risk to public health, if that person wishes to exercise during their period of self-isolation or self-quarantine, as the case may be.*
- (iv) if required to do so by law; or
 - (v) for the purposes of visiting a patient in hospital if permitted to do so under the **Hospital Visitor Directions (No. 7)**; and
- (c) must not permit any other person to enter the premises unless:
- (i) that other person:
 - (A) ordinarily resides at the premises; or
 - (B) is required to self-isolate or self-quarantine at the premises under these directions; or
 - (ii) it is necessary for the other person to enter for medical or emergency purposes; or
 - (iii) the other person is a **disability worker**, and it is necessary for the disability worker to enter for the purpose of providing a **disability service** to a person with a **disability**;
 - (iv) it is necessary for the other person to enter for the purpose of providing personal care or household assistance to the person as a result of that person's age, disability or chronic health condition; or
- Example: personal care includes assistance with showering, toileting, eating; household assistance includes help with cooking, house cleaning, laundry and gardening.*
- (v) the entry is otherwise required or authorised by law.

- (3) Subclause (2)(c) does not apply to a person who is a **resident** of a **care facility**.

Note: the Care Facilities Directions (No. 6) govern who can enter a care facility.

9 Exemption power

- (1) A person is not required to comply with a requirement of these directions if the person is granted an exemption from that requirement under subclause (2).
- (2) The Chief Health Officer or Deputy Chief Health Officer may exempt a person or a group of persons, from any or all requirements contained in these directions, if satisfied that an exemption is appropriate, having regard to the:
- (a) need to protect public health; and
 - (b) principles in sections 5 to 10 of the PHW Act, as appropriate.
- (3) An exemption under subclause (2) must:
- (a) be given, in writing, to the person the subject of the exemption; and
 - (b) specify the requirement or requirements that the person need not comply with.
- (4) An exemption granted to a person under this clause does not prevent an authorised officer from exercising an emergency power to give the person a different direction or impose a different requirement on the person.

10 Definitions

In these directions:

- (1) **authorised officer** has the same meaning as in the PHW Act;
- (2) **care facility** has the same meaning as in the **Care Facilities Directions (No. 6)**;
- (3) **Department** means the Victorian Department of Health and Human Services;
- (4) **Departmental Requirements** means the document titled ‘COVID-19 Pandemic Plan for the Victorian Health Sector’, as amended from time to time;

Note: the Departmental Requirements are available at:

<https://www2.health.vic.gov.au/about/publications/ResearchAndReports/covid-19-pandemic-plan-for-vic>

- (5) **emergency powers** has the same meaning as in the PHW Act;
- (6) **hospital** has the same meaning as in the **Hospital Visitors Directions (No. 7)**;
- (7) **premises** means:
 - (a) a building, or part of a building; and
 - (b) any land on which the building is located, other than land that is available for communal use;
- (8) **resident** of a care facility has the same meaning as in the **Care Facilities Directions (No. 6)**;
- (9) **Revoked Isolation Direction** means the following directions:
 - (a) **Isolation (Diagnosis) Direction**, given on 25 March 2020;
 - (b) **Isolation (Diagnosis) Direction (No. 2)**, given on 13 April 2020;
 - (c) **Diagnosed Persons and Close Contacts Directions**, given on 11 May 2020;
 - (d) **Diagnosed Persons and Close Contacts Directions (No. 2)**, given on 31 May 2020;
 - (e) **Diagnosed Persons and Close Contacts Directions (No. 3)**, given on 21 June 2020;
 - (f) **Diagnosed Persons and Close Contacts Directions (No. 4)**, given on 1 July 2020;

- (10) the following expressions have the same meaning that they have in the **Disability Service Safeguards Act 2018**:
- (a) disability;
 - (b) disability service;
 - (c) disability worker.

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 15 July 2020

DR FINN ROMANES
Deputy Public Health Commander,
as authorised to exercise emergency powers by the Chief Health Officer
under section 199(2)(a) of the PHW Act

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