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Public Health and Wellbeing Act 2008

Section 200

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

Workplace Directions (No. 2)

I, Dr Finn Romanes, Public Health Commander, 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 section 200(1)(d) of the **Public Health and Wellbeing Act 2008** (Vic.) (**PHW Act**):

1 Preamble

- (1) The presence of a person with a positive diagnosis of Novel Coronavirus 2019 (2019-nCoV) at a Work Premises is considered to pose an immediate risk of transmission to persons who attend, or may attend, the Work Premises.
- (2) The purpose of these directions is to limit the number of Victorians attending Work Premises to assist in reducing the frequency and scale of outbreaks of 2019-nCoV in Victorian workplaces and to establish more specific obligations on employers and workers in relation to managing the risk associated with 2019-nCoV.

These directions must be read together with the **Stay at Home Directions (Restricted Areas) (No. 7)**, the **Stay at Home Directions (Non-Melbourne)**, the **Restricted Activity Directions (Restricted Areas) (No. 6)**, the **Restricted Activity Directions (Non-Melbourne)**, the **Diagnosed Persons and Close Contacts Directions (No. 8)** and the **Permitted Worker Permit Scheme Directions (No. 2)** and the **Workplace (Additional Industry Obligations) Directions** as amended or replaced from time to time.

- (3) These directions are intended to supplement any obligation an employer may have under the OHS Act and are not intended to derogate from any such obligations.

2 Citation

- (1) These directions may be referred to as the Workplace Directions (No. 2).
- (2) A reference in any other Directions currently in force or any **Direction and Detention Notice** to the **Workplace Directions** are taken to be a reference to these directions.

3 Relationship with other directions

If there is any inconsistency between these directions and a direction or other requirement contained in a Direction and Detention Notice, these directions are inoperative to the extent of the inconsistency.

4 Revocation

The **Workplace Directions** are revoked at 12:59:00 am on 8 August 2020.

5 Commencement

These directions commence at 12:59:00 am on 8 August 2020 and end at 11:59:00 on 16 August 2020.

6 Operation of a Work Premises

- (1) An employer must not permit a worker to perform work at the Work Premises where it is reasonably practicable for the worker to work at the worker's place of residence or another suitable premises which is not the Work Premises.

*Note: the **Stay at Home Directions (Non-Melbourne)** permits a person to leave the premises where they ordinarily reside to attend work only if it is not reasonably practicable to work from their premises.*

SPECIAL

- (2) An employer must comply with the Permitted Worker Permit Scheme Directions where it applies to that employer.
- (3) Where an employer permits or requires work to be performed at a Work Premises, the employer must comply with clauses 7 to 9.

7 Preventative measures at Work Premises to reduce the risk of 2019-nCoV

Face coverings requirement

- (1) An employer must take reasonable steps to ensure the worker wears a face covering at all times when working at a Work Premises.

Note: a face covering includes a face mask or face shield designed or made to be worn over the nose and mouth to provide the wearer protection against infection. Please refer to the Department of Health and Human Services' guidelines for further information.

- (2) Subclause 7(1) does not apply if:
 - (a) the worker has a physical or mental health illness or condition or disability which makes wearing a face covering unsuitable; or
Examples: workers who have obstructed breathing or a serious skin condition on their face, an intellectual disability, a mental health illness, or who have experienced trauma;
 - (b) the worker is communicating with a person who is deaf or hard of hearing, where visibility of the mouth is essential for communication; or
 - (c) the nature of a worker's work means that wearing a face covering creates a risk to their health and safety; or
 - (d) the nature of a worker's work means that clear enunciation or visibility of the mouth is essential; or
Examples: teaching, lecturing, broadcasting.
 - (e) the worker is working by themselves in an enclosed **indoor space** (unless and until another person enters that indoor space); or
Example: a person working by themselves in an office.
 - (f) the worker is working by themselves in an **outdoor space**, provided no other person is also in the outdoor space (except a person who ordinarily resides at the same premises as the worker); or
Example: a farmer working by themselves in a field.
 - (g) the worker is a professional sportsperson when training or competing; or
 - (h) the worker is travelling in a **vehicle** for work purposes by themselves or where each other person in the vehicle ordinarily resides at the same premises; or
 - (i) the worker is consuming food, drink or medicine; or
 - (j) the worker is asked to remove the face covering to ascertain identity; or
Examples: a worker may be asked by police, security or post office staff to remove a face covering to ascertain identity.
 - (k) for emergency purposes; or
 - (l) required or authorised by law; or
 - (m) doing so is not safe in all the circumstances.

Note: a worker is required to wear a face covering at all other times when the circumstances above do not apply.

Example: a worker must wear a face covering when using ingress and egress points to the employer's premises, or other facilities such as toilets.

COVIDSafe Plan

- (3) Subject to sub-clause (5), an employer with a Work Premises located in the Restricted Area, must for that Work Premises:

- (a) have in place a COVIDSafe Plan, which addresses the health and safety issues arising from 2019-nCoV, including but not limited to:

Note 1: employers can use the template plan accessible from the following website for guidance: <https://www.business.vic.gov.au/disputes-disasters-and-succession-planning/covid-safe-business/creating-a-covid-safe-workplace#yourcovidsafeplan>

Note 2: some employers, regardless of whether their Work Premises is located in or outside the Restricted Area will be required to have a High Risk COVIDSAFE plan as set out in the Workplace (Additional Industry Obligations Directions).

- (i) the employer's process for implementing the record-keeping obligation under sub-clause 7(7);
- (ii) the appropriate level of PPE to be worn at the Work Premises;
- (iii) actions taken by the employer to mitigate the introduction of 2019-nCoV at the Work Premises;

For example: temperature testing, provision and training for PPE use, regular cleaning, specific cleaning requirements following an outbreak, physical distancing requirements (eg. closing or reconfiguring common areas such as lunchrooms to support workers remaining 1.5 m apart at all times);

- (iv) the processes which the employer has put in place to respond to any suspected case and any confirmed case of 2019-nCoV at the Work Premises, taking into account the employer's obligations under these directions;
- (v) an acknowledgement that the employer understands its responsibilities and obligations under these directions.

- (b) document and evidence, and require its managers to document and evidence, implementation of the COVIDSafe Plan.

- (4) The employer and the employer's workers must comply with the COVIDSafe Plan.
- (5) An employer is not required to comply with sub-clause 7(3) if they have fewer than five workers working at a Work Premises or the Work Premises is located outside of the Restricted Area.
- (6) An employer must:
- (a) comply with any direction given by an Authorised Officer or WorkSafe **inspector** to modify a COVIDSafe Plan, including:
- (i) following an outbreak of confirmed cases of 2019-nCoV at a Work Premises; or
- (ii) if the Authorised Officer considers that the COVIDSafe Plan is not fit for purpose; and
- (b) implement any modifications required in accordance with sub-clause 7(6)(a).

Record-keeping obligations (records requirement)

- (7) Subject to clause 7(8), an employer must keep a record of all workers and all visitors who attend the Work Premises for longer than 15 minutes, which includes:
- (a) their first name; and
- (b) a contact phone number; and
- (c) the date and time at which the person attended the Work Premises; and
- (d) the areas of the Work Premises which the person attended.

Note: the records requirement applies to all persons that attend the facility or venue for longer than 15 minutes, which may include staff, customers, maintenance and delivery workers.

- (8) An employer is not required to comply with the record keeping requirement in sub-clause 7(7):
- (a) where they are operating a Work Premises which is a **market**, market stall, a **retail facility or retail shopping centre** with respect to customers who attend that Work Premises, where it is not practicable to do so; or
 - (b) in relation to essential support groups if confidentiality is typically required.
Example: support groups for alcohol and drugs or family violence typically require confidentiality.
- (9) In collecting the information outlined in sub-clause 7(7), an employer must:
- (a) use reasonable endeavours to protect the personal information from use or disclosure other than in accordance with a request made by an Authorised Officer; and
 - (b) destroy the information as soon as **reasonably practicable** following 28 days after the attendance at the Work Premises, unless another statutory requirement permits or requires the personal information to be retained.

Density quotient (**Density quotient**)

- (10) In any shared spaces (such as lunchrooms) and publicly accessible areas at the Work Premises, an employer must comply with the **density quotient** for each shared space and each publicly accessible area.
- (11) The **density quotient** for the purposes of sub-clause 7(10) limits:
- (a) the number of people who are permitted in a shared space; and
 - (b) the number of members of the public who are permitted in a publicly accessible space,
- at any one time to the number calculated by dividing the total accessible space (measured in square metres) by 4 and:
- (c) for an **indoor space** applies to each single undivided space permitted to operate under these directions; and
 - (d) for an **indoor zone** applies to each indoor zone within an indoor space permitted to operate under these directions; and
 - (e) in relation to a publicly accessible space, for an **outdoor space, market or retail shopping centre**, applies to the total space permitted to operate under these directions.

Example:

A: 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 members of the public would be permitted to be in the indoor space at the same time.

B: if an indoor space is 15 metres long and 10 metres wide, its total area is 150 square metres. Its density quotient is 37.5.

Signage requirement (**signage requirement**)

- (12) Where a Work Premises has a publicly accessible space, an employer must display a sign at each public entry to each such space that includes a statement specifying the maximum number of members of the public that may be present in the space at a single time, being the number permitted by the density quotient, rounded down to the nearest whole number.
Example: if an area is 8.5 metres long and 4.5 metres wide, its total space is 38.25 square metres. Its density quotient is 9.56. The sign should state that the maximum number of members of the public that may be present in the space at a single time is 9.
- (13) A person who owns, operates or controls a market stall, market or retail shopping centre must:

- (a) limit the number of members of the public permitted by the density quotient as it applies respectively to the market stall, market or the retail shopping centre; and
- (b) use reasonable endeavours to implement relevant recommendations by the Victorian Government to manage public health risks arising out of the operation of the facility.

Cleaning requirements (cleaning requirement)

- (14) An employer must take all reasonable steps to ensure that shared spaces at which work is performed and areas accessible to members of the public at any Work Premises are cleaned on a regular basis, including:
 - (a) frequently touched surfaces, including toilets and handrails, are **cleaned** at least twice on any given day; and
 - (b) surfaces are cleaned when visibly soiled; and
 - (c) if an event is to occur, a reasonable period of time has elapsed since the conclusion of any earlier event to allow for cleaning in between the events; and
 - (d) surfaces accessible to a particular group are cleaned between groups; and
Example: cleaning surfaces between shifts of workers
 - (e) surfaces are cleaned immediately after a spill on the surface.
- (15) To ensure a surface is **cleaned** for the purposes of this direction, a person must wipe the surface with a disinfectant:
 - (a) the label of which states a claim by the manufacturer that the disinfectant has anti-viral properties; or
 - (b) made by a person according to instructions issued by the Department.
- (16) A person who owns, operates or controls a market stall, market or retail shopping centre must comply with the cleaning requirement respectively for the market stall, market or the **common areas** of the retail shopping centre.

Reducing work across multiple sites

- (17) Subject to clause 7(18), an employer must not require or permit a worker to perform work at more than one Work Premises of the employer.
- (18) Sub-clause 7(17) does not apply where it is not practicable to limit a worker to only one Work Premises.
Example: healthcare and social care workers, tradespeople performing essential repairs.
- (19) Where sub-clause 7(18) applies, the employer must be able to demonstrate the systems of work which it has put in place to minimise the number of workers working across multiple Work Premises.
For example: rosters.
- (20) If a worker is working at more than one Work Premises for two or more different employers:
 - (a) the worker must provide a written declaration to each employer to advise them that the worker is working at more than one Work Premises and must provide details of the other Work Premises to each employer; and
 - (b) each employer must maintain a record of all workers who have disclosed to the employer under sub-clause 7(20)(a) that they are working across more than one Work Premises.

8 Responding to a suspected case of 2019-nCoV in a Work Premises

- (1) An employer must not require a worker to perform work at a Work Premises if the worker is displaying one or more **2019-nCoV Symptoms**.

- (2) As soon as practicable after becoming aware of a **suspected case** in a worker who has attended a Work Premises in the period commencing 48 hours prior to the onset of symptoms, an employer must:
- (a) advise the worker to self-isolate immediately and support the worker in doing so, by either:
 - (i) directing the worker to travel home immediately (and providing support to the worker to do so); or
 - (ii) where the worker is unable to travel home immediately, directing the worker to isolate themselves at the Work Premises and, whilst doing so, to wear a face covering and remain at least 1.5 metres from any other person at the Work Premises, until the worker can return home later that day to self-isolate;

Note: the worker should isolate in a separate room from other persons, where possible;
 - (b) advise the worker to be tested for 2019-nCoV as soon as practicable, and to self-isolate whilst awaiting the result of that test;
 - (c) take all **reasonably practicable** steps to manage the risk posed by the suspected case, including but not limited to:
 - (i) cleaning areas of the Work Premises used by the worker (including their personal workspace and any areas in the Work Premises frequently used by the worker);
 - (ii) cleaning high-touch surfaces at the Work Premises likely to have been frequented by the suspected case;

For example: lift buttons, door handles, washroom facilities, kitchen facilities, water coolers. For further information, see the guidance at <https://www.dhhs.vic.gov.au/cleaning-and-disinfecting-reduce-covid-19-transmission-tips-non-healthcare-settings>;
 - (d) ensure appropriate records are maintained in accordance with clause 7(7) in order to support contact tracing if the suspected case becomes a **confirmed case**, particularly from the period commencing 48 hours prior to the onset of symptoms in the suspected case; and

Note: This will include, for example, rosters and worker details, and details of all visitors to the Work Premises, to ascertain which persons were present at the Work Premises and who they may have come into contact with;
 - (e) inform all workers (including the **health and safety representative**) to be vigilant about the onset of symptoms of 2019-nCoV and advise all workers to be tested for 2019-nCoV and self-isolate if they become symptomatic.
- (3) If an employer becomes aware of three or more suspected cases at one Work Premises within a five day period, the employer must, as soon as practicable, undertake a risk assessment to determine whether the Work Premises (or the relevant parts of the Work Premises) must be closed to allow appropriate action to be taken.

Note: appropriate action may include, but is not limited to, vacating the Work Premises to allow a comprehensive clean to be undertaken and the Work Premises to then be re-opened pending the outcome of 2019-nCoV test results. Guidance on undertaking a risk assessment, and implementing appropriate action, will be provided by the Department to assist in conducting this risk assessment.

9 Responding to a confirmed case of 2019-nCoV in a Work Premises

- (1) In these directions, in respect of a worker who has tested positive to 2019-nCoV, **Relevant Period** means the period commencing 48 hours prior to:
- (a) the onset of symptoms of 2019-nCoV in the worker, if symptomatic; or
 - (b) the worker having been tested for 2019-nCoV, if asymptomatic.
- and up to the diagnosed person receiving clearance from the Department.

- (2) A worker who has received a positive test result for 2019-nCoV must, as soon as practicable, notify the employer of any Work Premises which the worker has attended in the Relevant Period.
- (3) As soon as practicable after becoming aware of a confirmed case who has attended the Work Premises in the Relevant Period, the employer must:
- (a) notify the Department, WorkSafe Victoria in accordance with the *Occupational Health and Safety (COVID-19 Incident Notification) Regulations 2020* (Vic.) and the health and safety representative at the Work Premises;
 - (b) to the extent not already completed, direct the **diagnosed worker** not to attend the Work Premises and advise them to self-isolate in accordance with clause 8(2)(a);
 - (c) undertake a risk assessment to determine whether the Work Premises (or the relevant part of the Work Premises in which the diagnosed worker worked in the Relevant Period) must be closed to allow cleaning and contact tracing to occur or whether the risk can be managed whilst the Work Premises (or part of it) continues to operate;
 - (d) undertake a comprehensive clean of the Work Premises (or the relevant part of the Work Premises in which the diagnosed worker worked in the Relevant Period, and any high touch areas likely to have been touched by the diagnosed worker) in accordance with guidelines published by the Department;
Note: online guidance from the Department can be obtained from the following link: <https://www.dhhs.vic.gov.au/cleaning-and-disinfecting-reduce-covid-19-transmission-tips-non-healthcare-settings>;
 - (e) consult with the diagnosed worker and examine the employer's own records to determine any close contacts of the diagnosed worker at the Work Premises within the Relevant Period and, where any close contacts are identified and the employer has the relevant contact details of the close contact:
Note: for record-keeping obligations to assist with identification of close contacts and contact tracing, see clause 7(7);
 - (i) if the close contact is a worker, direct them to leave the Work Premises and advise them to self-quarantine; and
 - (ii) if the close contact is not a worker, issue them a written communication to recommend that they self-quarantine in accordance with guidance from the Department;
 - (f) notify all workers when a worker has tested positive to 2019-nCoV;
 - (g) inform all workers (including health and safety representatives) to be vigilant about the onset of symptoms of 2019-nCoV and advise all workers to be tested for 2019-nCoV and self-quarantine if they become symptomatic;
 - (h) put in place appropriate control / risk management measures to reduce the risk of spreading 2019-nCoV at the Work Premises;
Note: employers are encouraged to ensure that any risks identified from the confirmed case are addressed in these control measures. For example: increasing the implementation and enforcement of control measures with respect to PPE (such as face coverings) and physical distancing.
 - (i) contact the Department (or other entity nominated by the Department on its website) and:
 - (i) notify it of the actions taken in accordance with sub-clauses 9(3)(a) to 9(3)(h);
 - (ii) provide it with a copy of the risk assessment conducted in accordance with sub-clause 9(3)(c);

- (iii) provide the Department (or other entity nominated by the Department) with contact details of any close contacts (whether or not workers) identified pursuant to sub-clause 9(3)(e);
- (iv) comply with any further directions given by the Department or WorkSafe in relation to closure of the Work Premises (or part of the Work Premises) and/or cleaning;
- (j) where the Work Premises (or part of the Work Premises) is closed, not re-open that Work Premises (or that part of the Work Premises which was closed) until all of the following have occurred:
 - (i) the employer has complied with all of its obligations under sub-clauses 9(3)(a) to 9(3)(i);
 - (ii) the Department has completed all relevant contact tracing;
 - (iii) the Department has given clearance for the Work Premises to re-open;
 - (iv) the employer has notified WorkSafe when the Work Premises is re-opened.

Note: employers must comply with their obligations under occupational health and safety laws, including notifying WorkSafe Victoria in accordance with the Occupational Health and Safety (COVID-19 Incident Notification) Regulations 2020 (Vic.).

10 Other definitions

For the purposes of these directions:

- (1) **2019-nCoV Symptoms** means symptoms consistent with 2019-nCoV, including but not limited to:
 - (a) a fever ($\geq 37.5^{\circ}\text{C}$) or consistent fever of less than 37.5°C (such as night sweats, chills);
 - (b) acute respiratory infection (such as cough, shortness of breath, sore throat);
 - (c) loss of smell; and/or
loss of taste;
- (2) **Authorised Officer** has the same meaning as in the PHW Act;
- (3) **cleaned** has the meaning in clause 7(15);
- (4) **cleaning requirement** has the meaning in clauses 7(14) to 6(16) to (both inclusive);
- (5) **close contact** means any person who has had contact greater than 15 minutes face-to-face, cumulative, or the sharing of a closed space for more than two hours, with a confirmed case during the Relevant Period
- (6) **common areas** of a retail shopping centre has the same meaning as in the **Retail Leases Act 2003**;
- (7) **confirmed case** means a diagnoses of 2019-nCoV in a worker at the Work Premises;
- (8) **Department** means the Department of Health and Human Services of Victoria;
- (9) **diagnosed worker** means a worker who is a **diagnosed person**;
- (10) **diagnosed person** has the same meaning as in the **Diagnosed Persons and Close Contacts Directions (No. 8)** as amended or replaced from time to time;
- (11) **Direction and Detention Notice** has the same meaning as in the **Stay at Home Directions (Restricted Areas) (No. 7)** as amended or replaced from time to time;
- (12) **employee** includes a person who is self-employed;
- (13) **employer** means a person who owns, operates or controls a Work Premises and includes a person who is self-employed;
- (14) **health and safety representative** has the same meaning as in the OHS Act;

- (15) **indoor space** has the same meaning as in the **Restricted Activity Directions (Non-Melbourne)** as amended or replaced from time to time;
- (16) **inspector** has the same meaning as in the OHS Act;
- (17) **market** means a public market, whether indoor or outdoor, including a food market;
- (18) **OHS Act** means the *Occupational Health and Safety Act 2004* (Vic.);
- (19) **outbreak** means:
- (a) a single confirmed case of COVID-19 in a resident, staff member or frequent attendee of residential and aged care facilities (RACF);
- (b) two or more epidemiologically linked cases outside of a household with symptom onset within 14 days;
- Note: Transmission within one household does not constitute an outbreak but will become part of an outbreak response if linked to a high priority setting. Also, in some circumstances, the department may identify other settings that are sensitive and where a single confirmed case will trigger an outbreak response. Relevant parties will be informed if this occurs. Determining whether a person is a frequent or infrequent visitor may be based on frequency of visits, time spent in the setting, and number of contacts within the setting.*
- (20) **outdoor space** has the same meaning as in the **Restricted Activity Directions (No. 16)** as amended or replaced from time to time;
- (21) **PHW Act** means the *Public Health and Wellbeing Act 2008* (Vic.);
- (22) **place of worship** has the same meaning as in the **Heritage Act 2017**;
- (23) **PPE** means personal protective equipment;
- (24) **premises** has the same meaning as in the PHW Act;
- (25) **reasonably practicable** is to have its ordinary and common sense meaning;
- (26) **records requirement** has the meaning in clause 7(7) to 7(9) (both inclusive);
- (27) **Relevant Period** has the meaning given in sub-clause 9(1);
- (28) **Restricted Area** has the meaning in the **Area Directions (No. 6)**;
- (29) **retail facility** includes any facility that is used wholly or predominantly for:
- (a) the sale or hire of goods by retail; or
- (b) the retail provision of services;
- (30) **retail shopping centre** has the same meaning as in the Retail Leases Act 2003;
- (31) **self-isolate** has the same meaning as in the **Diagnosed Persons and Close Contacts Directions (No. 8)** as amended or replaced from time to time;
- (32) **self-quarantine** has the same meaning as in the **Diagnosed Persons and Close Contacts Directions (No. 8)** as amended or replaced from time to time;
- (33) **signage requirement** has the meaning in clauses 7(12) and 7(13);
- (34) **suspected case** means a person who is displaying one or more **2019-nCoV Symptoms**;
- (35) **vehicle** has the same meaning as in the PHW Act;
- (36) **Work Premises** means the premises of an employer in which work is undertaken, including any vehicle whilst being used for work purposes; and
- Note: this includes a community facility such as a community centre or community hall, or a public library, or a place of worship.*
- (37) **worker** includes employees, subcontractors (and their employees), volunteers and any other person engaged or permitted by an employer to perform work.

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 8 August 2020

DR FINN ROMANES
Public Health Commander,
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

Section 200

**DIRECTIONS FROM PUBLIC HEALTH COMMANDER IN ACCORDANCE WITH
EMERGENCY POWERS ARISING FROM DECLARED STATE OF EMERGENCY****Workplace (Additional Industry Obligations) Directions**

I, Dr Finn Romanes, Public Health Commander, 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 section 200(1)(d) of the **Public Health and Wellbeing Act 2008** (Vic.) (**PHW Act**):

1 Preamble

- (1) The presence of a person with a positive diagnosis of Novel Coronavirus 2019 (**2019-nCoV**) at a **Work Premises** is considered to pose an immediate risk of transmission to persons who attend, or may attend, the Work Premises.
- (2) The purpose of these directions is to limit the number of Victorians attending certain Work Premises to assist in reducing the frequency and scale of outbreaks of 2019-nCoV in Victorian workplaces and to establish additional specific obligations on employers and workers in specific industries in relation to managing the risk associated with 2019-nCoV.
- (3) These directions must be read together with the **Workplace Directions (No. 2)**, the **Stay at Home Directions (Restricted Areas) (No. 9)**, the **Stay at Home Directions (Non-Melbourne)**, the **Restricted Activity Directions (Restricted Areas) (No. 6)**, the **Restricted Activity Directions (Non-Melbourne)**, the **Diagnosed Persons and Close Contacts Directions (No. 8)** and the **Permitted Worker Permit Scheme Directions (No. 2)**, as amended or replaced from time to time.
- (4) These directions are intended to supplement any obligation an employer may have under the OHS Act and the **Workplace Directions (No. 2)** and the **Permitted Worker Permit Scheme Directions (No. 2)** and are not intended to derogate from any such obligations.

2 Citation

These directions may be referred to as the **Workplace (Additional Industry Obligations) Directions**.

3 Relationship with other directions

If there is any inconsistency between these directions and a direction or other requirement contained in a **Direction and Detention Notice**, these directions are inoperative to the extent of the inconsistency.

If there is any inconsistency between these directions and a direction or other requirement contained in the **Workplace Directions (No. 2)**, the **Workplace Directions (No. 2)** are inoperative to the extent of the inconsistency.

4 Commencement

These directions commence:

- (1) in relation to clauses 7(9), 7(9)(c), 7(11), 7(12), 7(13), 7(14) and 7(14), at 11:59:00 pm on 9 August 2020; and
- (2) otherwise, at 1.59 am on 8 August 2020,
and end at 11:59:00 pm on 16 August 2020.

5 Application of directions to certain employers and roles

- (1) These directions apply to **Additional Obligation Industries**, namely:
 - (a) **poultry processing;**
 - (b) **abattoirs and meat processing facility;**

- (c) **seafood processing;**
- (d) **supermarkets;**
- (e) **medical supply, pharmaceutical supply and personal protective equipment supply facilities;**
- (f) warehousing, distribution centres, freight, postal and logistics businesses;
- (g) **construction;** and
- (h) **retail facilities.**

Note: each of these industries is described in the document titled 'Stage 4 Restrictions – Permitted Work Premises' on the webpage www.dhhs.vic.gov.au/business-industry-stage-4-restrictions-covid-19 (as amended from time to time by the Victorian Government) in the following categories in square brackets:

- *Poultry processing facilities [Meat and meat product manufacturing]*
- *Abattoirs and further meat processing [Meat and meat product manufacturing]*
- *Seafood processing [Seafood processing]*
- *Supermarket businesses [Supermarkets and grocery shops, including all food and liquor shops; Transport, postal and warehousing]*
- *Medical supply, pharmaceutical and personal protective equipment facilities [Manufacturing of pharmaceutical and blood products; Manufacturing of medical equipment, consumables and personal protective equipment (PPE), including the manufacturing and supply of cloth masks and required raw materials]*
- *Warehousing, distribution centres, freight, postal and logistics businesses [Transport, postal and warehousing]*
- *Construction [Construction].*

- (2) These directions apply to Additional Obligation Industries Work Premises that are located:
 - (a) in relation to poultry processing facilities, abattoirs and further meat processing and seafood processing, anywhere in Victoria; and
 - (b) in relation to all other Additional Obligation Industries not referred to in subclause 5(2)(a), in the Restricted Area.
- (3) The limits on the number of workers imposed in these directions apply in relation to roles carried out by a **worker** at the Work Premises including, but not limited to:
 - (a) owner;
 - (b) manager;
 - (c) persons carrying out roles necessary to the functioning of the Work Premises;
 - (d) security personnel; and
 - (e) any other person engaged or permitted by an employer to perform work at the Work Premises,

but does not apply insofar as it relates to workers:

- (f) where it is reasonably practicable for those workers to work from home;

*Note: clause 5 of the **Workplace Directions (No. 2)** require that an employer must not permit a worker to perform work at the Work Premises where it is reasonably practicable for the worker to work remotely.*
- (g) undertaking emergency repairs and emergency maintenance;
- (h) whose role primarily relates to:
 - (i) carrying out the **cleaning requirements** in relation to the Work Premises; or
 - (ii) assurance activities related to the employer meeting its obligations under the **Workplace Directions (No. 2)** or these directions;

- (i) in relation to Work Premises that are construction sites, suppliers or workers transporting supplies to the construction site, where those workers are only on the construction site for such period of time as is reasonably necessary to deliver the supplies to the site.
- (4) Workers that provide architecture, surveying, building inspection and engineering services must work from home where reasonably practicable. Where these workers are required to attend Work Premises for inspection and safety purposes, they are counted as workers for the purposes of clause 5(3).
- (5) Workers under clause 5(4) who need to move between sites must not visit more than three Work Premises per week, except where those visits are required to meet a minimum statutory obligation or requirement.
- (6) The **daily peak workforce capacity** is the daily average of the highest number of workers at the Work Premises each day calculated over the period of:
 - (a) July 2020; or
 - (b) any three consecutive months in the last 12 months.
- (7) A **daily total workforce capacity** is the daily average of the total number of workers at the Work Premises each day over the period of:
 - (a) July 2020; or
 - (b) any three consecutive months in the last 12 months.

Example 1

On one day, a distribution business had staff working over two shifts:

- (a) 6.00 am to 2.00 pm: 120 employees
- (b) 12.00 pm to 8.00 pm: 150 employees

During the crossover of the two shifts, the business had 270 workers working at the Work Premises at any one time – this is the daily peak workforce capacity on this day. Over the two shifts, the Work Premises had 270 workers working in total – this is the daily total workforce capacity on this day.

The same calculation is undertaken for each day of either July 2020 or any continuous three-month period in the last twelve months. These figures are then averaged over the period to calculate the daily peak workforce capacity and the daily total workforce capacity over the period.

Example 2

On one day, a meat processing business had people on the Work Premises, including employees, contractors and labour hire, working over three shifts with no cross-over of staff:

- (a) 4.00 am to 10.00 am: 120 staff
- (b) 10.30 am to 4.30 pm: 100 staff
- (c) 5.00 pm to 11.00 pm: 80 staff

The daily peak workforce capacity on this day is 120 workers. Over the three shifts, the business had 300 workers working in total – this is the daily total workforce capacity on this day.

6 High Risk COVIDSafe Plan

High Risk COVIDSafe Plan

- (1) Each Additional Obligation Industry Work Premises (except for retail facilities) must have a **High Risk COVIDSafe Plan**.
- (2) A **High Risk COVIDSafe Plan** is comprised of:
 - (a) a COVIDSafe Plan completed in accordance with the requirements in the **Workplace Directions (No. 2)** (regardless of whether an Additional Obligation Industry is required to have a COVIDSafe Plan under the **Workplace Directions (No. 2)**); and
 - (b) an Additional Obligation Industry attachment to the COVIDSafe Plan for the relevant industry in the form specified on the Business Victoria website;

- (c) any relevant guidance issued by the Victorian Government and the requirements of the Workplace (Additional Industry Obligations) Directions.

Note: guidance (including templates) can be found at the following website: <https://www.business.vic.gov.au/disputes-disasters-and-succession-planning/covid-safe-business/creating-a-covid-safe-workplace>

- (3) The employer and the employer's workers must comply with the High Risk COVIDSafe Plan.
- (4) An employer must:
- (a) comply with any direction given by an Authorised Officer or WorkSafe **inspector** to modify a High Risk COVIDSafe Plan, including:
- (i) following an **outbreak** of confirmed cases of 2019-nCoV at a Work Premises; or
- (ii) if the Authorised Officer considers that the High Risk COVIDSafe Plan is not fit for purpose; and
- (b) implement any modifications required in accordance with sub-clause 6(4)(a).

Record-keeping obligations

- (5) An employer must keep records to demonstrate compliance with these directions, including (without limitation):
- (a) the High Risk COVIDSafe Plan;
- (b) Work Premises rosters;
- (c) time & attendance records;
- (d) payroll data; and
- (e) records of all workers and all visitors who attend the Work Premises in accordance with the **records requirement**.

Compliance

- (6) An authorised officer or inspector (or their nominated representative) may conduct:
- (a) an inspection of a Work Premises; or
- (b) an inspection or audit of the records of an employer, to assess an employer's compliance with these directions.

7 Additional Industry Obligations

Additional health screening for abattoirs and meat processing, seafood processing and poultry processing facilities and additional cleaning obligations for all Additional Obligation Industries

- (1) In relation to the Work Premises that is an abattoir, seafood processing facility, meat processing facility or poultry processing facility an employer must:
- (a) ensure that all workers at the Work Premises wear the appropriate level **personal protective equipment**:
- (i) to carry out the functions of the worker's role; and
- (ii) to mitigate the introduction of 2019-nCoV at the Work Premises including, but not limited to:
- (A) at a minimum, wearing a surgical face mask; and
- (B) a face shield; and
- (C) suitable protective clothing which should be used and changed at the end of each shift and washed appropriately,
- unless it is not reasonably practicable to wear it in the Work Premises or the nature of a worker's work means that wearing the protective clothing creates a risk to their health and safety;

- (b) subject to clause (15)(c)(ii), ensure that workers to not work across multiple Work Premises in accordance with the requirements in clauses 6(17) to (20) of **Workplace Directions (No. 2)**.
 - (c) All Additional Obligation Industries must increase the regularity of comprehensive cleaning by ensuring of all areas where staff are working are **cleaned** at least daily, except for retail facilities and construction (noting these industries are still subject to obligations under the **Workplace Directions (No. 2)**).test the temperature of each worker each day before they enter the Work Premises and if the worker's temperature is 37.5°C or more, direct the worker to:
 - (i) leave the Work Premises immediately; and
 - (ii) be tested for 2019-nCoV; and
 - (iii) **self-isolate** until a negative test result is received;
 - (d) advise workers to be tested for 2019-nCoV if symptomatic and to self-isolate whilst awaiting the result of that test;
 - (e) follow any directions from the Department in relation to observing workers for symptoms and testing of workers.
- (2) A worker who attends a Work Premises that is an abattoir, meat processing facility, seafood processing facility or poultry processing facility must not travel in a vehicle with another person with whom they do not ordinarily reside unless it is not otherwise reasonably practicable for either person to leave their premises for a purpose permitted under these directions.

Example, a person who does not hold a driver's licence may travel in a vehicle with another person with whom they do not ordinarily reside for the purposes of attending a Work Premises if it is not reasonably practicable for them to get there another way.

Poultry processing facilities

- (3) An employer may only operate a Work Premises that is a poultry processing facility if it reduces the daily peak workforce capacity and daily total workforce capacity for that Work Premises by 20 percent or to 25 workers, whichever is higher.
- (4) The Chief Veterinary Officer may grant an exemption in writing to the requirements of subclause 7(3).

Example: The Chief Veterinary Officer may grant an exemption in circumstances where an outbreak requires the closure of a poultry processing facility, requiring other poultry processing facility will be able to 'scale-up' capacity.

Abattoirs and meat processing facilities

- (5) An employer may only operate a Work Premises that is an abattoir or meat processing facility if it reduces the daily peak workforce capacity and daily total workforce capacity by 33 per cent or to 25 workers, whichever is higher.
- (6) The Chief Veterinary Officer may grant an exemption in writing to the requirements of subclause 7(5).

Example: The Chief Veterinary Officer may grant an exemption in circumstances where an outbreak requires the closure of an abattoir or meat processing facility, requiring other poultry processing facility will be able to 'scale-up' capacity.

Seafood processing facilities

- (7) An employer may only operate a Work Premises that is a seafood processing facility if it reduces the daily peak workforce capacity and daily total workforce capacity by 33 percent or to 40 workers, whichever is higher.
- (8) The Chief Veterinary Officer may grant an exemption in writing to the requirements of subclause 7(7).

Example: The Chief Veterinary Officer may grant an exemption in circumstances where an outbreak requires the closure of a seafood processing facility, requiring other poultry processing facility will be able to 'scale-up' capacity.

Supermarket and perishable food warehouses and distribution facilities

- (9) In relation to supermarket and perishable food warehouses and distribution facilities:
- (a) **supermarket Work Premises** means the total of all supermarket retail and distribution facilities;
 - (b) **perishable food Work Premises** means the total of all perishable food goods supply chain;
 - (c) **supermarket or perishable food daily peak workforce capacity** means the daily peak workforce capacity of a supermarket Work Premises or perishable food Work Premises (as the case may be) predominantly dedicated to distribution activities; and
 - (d) **supermarket or perishable food daily total workforce capacity** means the daily total workforce capacity of a supermarket Work Premises or perishable food Work Premises (as the case may be) predominantly dedicated to distribution activities.
- (10) An employer may only operate its supermarket Work Premises if it reduces its supermarket daily peak workforce capacity and supermarket daily total workforce capacity by 33 percent across the supermarket Work Premises.

Example: if a supermarket distribution facility daily peak workforce capacity is 300 workers and daily total workforce capacity is 600 workers, then the employer must reduce its daily peak workforce capacity by 100 workers and daily total workforce capacity by 200 workers. However, these reductions can be made across any part of the supermarket Work Premises, not just at the distribution facility.

Warehousing, distribution centres, freight, postal and logistics facilities

- (11) Subject to clauses 7(12), an employer may only operate a Work Premises that is a warehousing, distribution, freight, postal or logistics facility if it reduces its daily peak workforce capacity and daily total workforce capacity by at least 33 percent.

Note: clause 7(11) does not apply to supermarket warehousing, distribution, freight, postal and logistics facilities, which are dealt with under clauses 7(9) and (10).

Medical supply, pharmaceuticals supply and personal protective equipment facilities

- (12) An employer may only operate a Work Premises that is a manufacturing warehousing, distribution, freight or logistics facility in relation to medical supply, pharmaceutical supply, and personal protective equipment supply if it reduces its daily peak workforce capacity and daily total workforce capacity by at least 33 percent.
- (13) Subclauses 7(12) and 7(14) do not apply to a **pharmaceutical warehouse**.
- (14) A **medical supply, pharmaceutical supply or personal protective equipment supply** Work Premises means the total of all medical supply, pharmaceutical supply or protective personal equipment supply facilities operated by the employer. An employer may achieve the reduction specified in subclause 7(12) by reducing staff in any of its medical supply, pharmaceutical supply or personal protective equipment supply work premises

Example: if a medical supply distribution facility has a daily peak workforce capacity is 300 workers and daily total workforce capacity is 600 workers, then the employer must reduce its daily peak workforce capacity by 100 workers and daily total workforce capacity by 200 workers. However, these reductions can be made across any part of the medical supply Work Premises, not just at the distribution facility.

Construction sites

- (15) In relation to construction sites:
- (a) A **construction site** is a Work Premises at which civil works, building or construction activities take place;
 - (b) **critical and essential infrastructure** means:

- (i) construction or maintenance (including civil works and building activities) of critical and essential infrastructure (whether privately or publicly funded) where the Victorian Government has deemed and the Chief Health Officer has endorsed that is urgently required for the purposes of sustaining human health, safety and wellbeing, on a case by case basis ;
 - (ii) activities deemed by government from time to time as “State Critical Infrastructure Projects”; or
 - (iii) construction for the purposes of national security or defence.
- (c) The requirements of the **Workplace Directions (No. 2)** apply to Work Premises that is a construction site, including:
- (i) subject to clause 7(19), the **density quotient**; and
 - (ii) the face coverings and cleaning requirements in the **Workplace Directions (No. 2)**;
 - (iii) the requirement that an employer must not require or permit a worker to perform work at more than three Work Premises each week,
- (d) An employer in relation to a Work Premises that is a construction site must comply with the applicable staffing reductions for the construction site except in relation to:
- (i) critical and essential infrastructure; or
 - (ii) critical repairs to any Work Premises where required for emergency and safety (as provided for by the Stage 4 Restrictions “Permitted Work Premises” published on the DHHS website (refer <https://www.dhhs.vic.gov.au/business-industry-stage-4-restrictions-covid-19>)).
- (e) An employer must limit movement of all workers (including supervisors and on-site specialists) between multiple Work Premises that are construction sites, except in relation to:
- (i) supervisors on small-scale construction, who can move between multiple small-scale construction sites; or
 - (ii) **specialist contractors** can move between up to 3 construction sites per week; or
 - (iii) specialists who provide safety services.

Small-scale construction sites

- (16) A **small-scale construction site** is a construction site other than a **large-scale construction site** or an **early stage residential land development site**.
- (17) An employer must not operate a Work Premises that is small-scale construction site with more than 5 workers (excluding the site supervisor) at any one time.

Early stage residential land development sites

- (18) An **early stage residential land development site** comprises all civil works undertaken on open air, large greenfield sites that are associated with and preparatory to construction of multiple individual residential dwellings on that site (including site remediation and site preparation works, construction of utilities and construction of roads, bridges, stormwater/flood management works and trunk infrastructure).
- (19) An employer may only operate a Work Premises that is an early stage residential land development site if there are 10 workers per hectare or fewer on the Work Premises at any one time.
- (20) Once subdivision occurs, the construction of that dwelling on that part of the early stage residential land development site is regarded as a small-scale construction site for the purposes of these directions.

- (21) In relation to an early stage residential land development site that is a large scale residential development (for example, a retirement village) with a single entity responsible for construction, once construction of dwellings are commenced it will be considered a large-scale construction site.

Large-scale construction sites

- (22) A construction site is a **large-scale construction site** if it is:
- (a) for construction of a building where a planning permit has been issued in relation to the site for a building that is greater than three storeys tall (excluding basement level(s)); or
 - (b) the site size is more than 1,500m² floor size; or
 - (c) construction of a premises that is predominantly for office use, or that is the internal fit-out of a retail premises; or
 - (d) construction of a premises that is predominantly for industrial or large format retail use.
- (23) The baseline daily workforce for a large-scale construction site is calculated based on the daily average number of workers on the large-scale construction site across the project lifecycle as derived from the large-scale construction site's resourcing plan as of 31 July 2020.
- (24) The project lifecycle commences from the date of on-site mobilisation and ends at handover
- (25) An employer must not operate a large-scale construction site in excess of the higher of 25 percent of the large-scale construction baseline daily workforce, or 5 workers.

Retail facilities

- (26) An employer may only operate a Work Premises that is a **retail facility**:
- (a) for the purposes of fulfilling online orders; and
 - (b) if it reduces its daily peak workforce capacity and daily total workforce capacity by 33 percent.
- (27) If there is any inconsistency between subclause 7(26) and the **Restricted Activity Directions (Restricted Areas) (No. 6) or the Restricted Activity Directions (Non-Melbourne)**, subclause 7(26) is inoperative to the extent of the inconsistency.

8 Other definitions

For the purposes of these directions:

- (1) **abattoir** has the meaning under the PrimeSafe licence categories "abattoirs (domestic)" and "abattoirs (exports)";
- (2) **Additional obligation industries** has the meaning in clause 5(1);
- (3) **Authorised Officer** has the same meaning as in the PHW Act;
- (4) **Chief Veterinary Officer** means the chief veterinary officer of the Department of Jobs, Precincts and Regions;
- (5) **cleaned** has the same meaning as in the **Workplace Directions (No. 2)**;
- (6) **cleaning requirement** has the same meaning as in the **Workplace Direction**;
- (7) **confirmed case** means a diagnoses of 2019-nCoV in a worker at the Work Premises;
- (8) **daily total workforce capacity** has the meaning in clause 5(7);
- (9) **daily peak workforce capacity** has the meaning in clause 5(6);
- (10) **Department** means the Department of Health and Human Services of Victoria;
- (11) **Direction and Detention Notice** has the same meaning as in the **Stay at Home Directions (Restricted Areas) (No. 9)** as amended or replaced from time to time;

- (12) **early stage residential land development site** has the meaning in clause 7(18);
- (13) **employee** includes a person who is self-employed;
- (14) **employer** means a person who owns, operates or controls a Work Premises and includes a person who is self-employed or a sole-trader;
- (15) **High Risk COVIDSafe Plan** has the meaning in clause 6(1);
- (16) **Inspector** has the same meaning as in the OHS Act;
- (17) **large-scale construction site** has the meaning in clause 7(22);
- (18) **meat processing facility** has the meaning under the PrimeSafe licence category “further meat processing facilities”
- (19) **medical supply, pharmaceutical supply, and personal protective equipment supply** means businesses that manufacture pharmaceutical and blood products; medical equipment, consumables and personal protective equipment (PPE), including the manufacturing and supply of cloth masks and required raw materials
- (20) **OHS Act** means the *Occupational Health and Safety Act 2004* (Vic.);
- (21) **outbreak** means:
- (a) a single confirmed case of COVID-19 in a resident, staff member or frequent attendee of residential and aged care facilities;
- (b) two or more epidemiologically linked cases outside of a household with symptom onset within 14 days;
- Note: Transmission within one household does not constitute an outbreak but will become part of an outbreak response if linked to a high priority setting. Also, in some circumstances, the department may identify other settings that are sensitive and where a single confirmed case will trigger an outbreak response. Relevant parties will be informed if this occurs. Determining whether a person is a frequent or infrequent visitor may be based on frequency of visits, time spent in the setting, and number of contacts within the setting.*
- (22) **perishable food Work Premises** means the total of all perishable food warehouses and distribution facilities;
- (23) **Permitted Work Premises** means Work Premises described as ‘PERMITTED WORK PREMISES’ in the ‘Stage 4 Restrictions – Permitted Work Premises’ on the webpage www.dhhs.vic.gov.au/business-industry-stage-4-restrictions-covid-19 as amended from time to time by the Victorian Government;
- (24) **personal protective equipment** has the same meaning as in the *Occupational Health and Safety Regulations 2017*;
- (25) **pharmaceutical warehouse** means a warehouse that is licensed under the *Poisons and Therapeutic Goods Act 1966* for the supply of medicines listed under Schedules 2, 3, 4, and 8 and warehouses that distribute medical devices and consumables that are registered on the Australian Register of Therapeutic Goods.
- (26) **PHW Act** means the *Public Health and Wellbeing Act 2008* (Vic.);
- (27) **poultry processing** means has the meaning under the PrimeSafe licence category “poultry meat processing facilities”
- (28) **premises** has the same meaning as in the PHW Act;
- (29) **reasonably practicable** is to have its ordinary and common sense meaning;
- (30) **records requirement** has the same meaning as in the **Workplace Directions (No. 2)**;
- (31) **retail facility** includes any facility that is used wholly or predominantly for:
- (a) the sale or hire of goods by retail; or
- (b) the retail provision of services,
- but does not include a **retail shopping centre**;

- (32) **retail shopping centre** has the same meaning as in the *Retail Leases Act 2003*;
- (33) **seafood processing** means has the meaning under the PrimeSafe licence category “seafood processing facilities”
- (34) **self-isolate** has the same meaning as in the **Diagnosed Persons and Close Contacts Directions (No. 8)** as amended or replaced from time to time;
- (35) **small-scale construction site** has the meaning in clause 7(16);
- (36) **specialist contractor** means:
- (a) Asphalters;
 - (b) Carpenters;
 - (c) Plasterer;
 - (d) Carpet layer;
 - (e) Sprinkler fitters;
 - (f) Solar installers;
 - (g) Security system installer;
 - (h) Mobile Cranes – Operators and dogman;
 - (i) Concrete trucks;
 - (j) Concrete pump operators;
 - (k) Electricians;
 - (l) Plumbers;
 - (m) Tile layers;
 - (n) Concreters;
 - (o) Gold Class riggers;
 - (p) Steel fixers;
 - (q) Post Tensioners;
 - (r) Truck Drivers;
 - (s) Alimak Riggers;
 - (t) Welders;
 - (u) Precast installers;
 - (v) Corkers;
 - (w) Floor layers;
 - (x) Scaffolders;
 - (y) Internal Glaziers;
- (37) **supermarket** means has the same meaning as “supermarket business” in the PHW Act, and includes supermarket distribution;
- (38) **supermarket or perishable food daily peak workforce capacity** has the meaning in clause 7(9)(c);
- (39) **supermarket or perishable food daily total workforce capacity** has the meaning in clause 7(9)(d);
- (40) **vehicle** has the same meaning as in the PHW Act;
- (41) **Work Premises** means the premises of an employer in which work is undertaken, including any vehicle whilst being used for work purposes; and
- (42) **worker** includes employees, labour hire, subcontractors (and their employees), volunteers and any other person engaged or permitted by an employer to perform work.

9 Penalties

- (1) Section 210 of the PHW Act provides:

False or misleading information

- (1) A person must not –
- (a) give information that is false or misleading in a material particular; or
 - (b) make a statement that is false or misleading in a material particular; or
 - (c) produce a document that is false or misleading in a material particular –
- to the Secretary, a Council, the Chief Health Officer or an authorised officer under this Act or the regulations without indicating the respect in which it is false or misleading and, if practicable, providing correct information.

Penalty: In the case of a natural person, 60 penalty units;
In the case of a body corporate, 300 penalty units.

Note: currently, 60 penalty units equals \$9,912.20 and 300 penalty units equals \$49,466.00.

- (2) A person must not make an entry in a document required to be kept by this Act or the regulations that is false or misleading.

Penalty: In the case of a natural person, 60 penalty units;
In the case of a body corporate, 300 penalty units.

- (3) In a proceeding for an offence against subsection (1) or (2) it is a defence to the charge for the accused to prove that at the time at which the offence is alleged to have been committed, the accused believed on reasonable grounds that the information, statement or document was true or was not misleading.

- (2) 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.

Note: currently, 120 penalty units equals \$19,826.40 and 600 penalty units equals \$99,132.00.

- (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.

- (3) A person who fails to comply with these directions is liable for an on-the-spot fine of:

- (a) \$1,600 in the case of a natural person; or
- (b) \$9,900 in the case of a body corporate.

- (4) Additionally, a person who fails to comply with these directions may in certain circumstances be liable to prosecution under the PHW Act for the maximum penalties outlined in subclause (2).

Dated 8 August 2020

DR FINN ROMANES
Public Health Commander,
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

Section 200

DIRECTIONS FROM PUBLIC HEALTH COMMANDER IN ACCORDANCE WITH
EMERGENCY POWERS ARISING FROM DECLARED STATE OF EMERGENCYPermitted Worker Permit Scheme and Access to Onsite Childcare/Kindergarten Permit Scheme
Directions (No. 2)

I, Dr Finn Romanes, Public Health Commander, 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 section 200(1)(d) of the **Public Health and Wellbeing Act 2008** (Vic.) (**PHW Act**):

PART 1 – PRELIMINARY**1 Preamble**

- (1) The purpose of these directions is to address the serious public health risk posed to Victoria by Novel Coronavirus 2019 (**2019-nCoV**).
- (2) These directions establish the **Permitted Worker Permit Scheme** and the **Access to Onsite Childcare/Kindergarten Permit Scheme**.
- (3) The Permitted Worker Permit Scheme details obligations on:
 - (a) **Permitted Employers** who operate a **Work Premises** in the **Restricted Area** or require an employee who ordinarily resides in the **Restricted Area** or the **Relevant Area** to attend a Work Premises; and
 - (b) employees who ordinarily reside in the **Restricted Area** to attend the Work Premises of a Permitted Employer,
 in relation to the Permitted Worker Permit Scheme, which are necessary to manage the risk associated with 2019-nCoV.
- (4) The Permitted Worker Permit Scheme is designed to allow Permitted Employers providing **Permitted Services** to operate during Stage 4 restrictions in Victoria, by issuing employees with a **Permitted Worker Permit** to work at a Work Premises during the **Permitted Worker Permit Scheme period**.
- (5) The Access to Onsite Childcare/Kindergarten Permit Scheme details the requirements for employees of Permitted Employers to access onsite childcare and/or kindergarten.
- (6) These directions must be read together with the **Directions currently in force**, being the **Stay at Home Directions (Restricted Areas) (No. 8)**, the **Stay at Home Directions (Non-Melbourne)**, the **Restricted Activity Directions (Restricted Areas) (No. 6)**, the **Restricted Activity Directions (Non-Melbourne)**, the **Area Directions (No. 6)**, the **Diagnosed Persons and Close Contacts Directions (No. 8)**, the **Hospital Visitor Directions (No. 9)**, the **Care Facilities Directions (No. 9)** and the **Workplace Directions**.

2 Citation

- (1) These directions may be referred to as the **Permitted Worker Permit Scheme Directions (No. 2)**.
- (2) A reference in any other Directions currently in force or any Direction and Detention Notice to the **Permitted Worker Permit Scheme Directions** are taken to be a reference to these directions.
- (3) The **Permitted Worker Permit Scheme Directions** are revoked at 12:59:00 am on 8 August 2020.

PART 2 – PERMITTED WORKER PERMIT SCHEME**3 Permitted Worker Permit Scheme period**

For the purposes of these directions, the **Permitted Worker Permit Scheme period** is the period beginning at 12:59:00am on 8 August 2020 and ending at 11:59:00pm on 16 August 2020.

4 Diagnosed Persons and Close Contacts

- (1) A person who is a **diagnosed person** or a **close contact** is not permitted to:
 - (a) hold a Permitted Worker Permit; or
 - (b) otherwise attend a Work Premises in reliance on any of the provisions contained in these directions.
- (2) If a person is notified that they are a diagnosed person or a close contact in accordance with the **Diagnosed Persons and Close Contacts Directions (No. 8)**:
 - (a) they must immediately notify their employer; and
 - (b) they must not attend or remain at the Work Premises; and
 - (c) any Permitted Work Permit is automatically revoked upon such notification.

Note: once a person has been released or given clearance from self-isolation or self-quarantine in accordance with the Diagnosed Persons and Close Contacts Directions (No. 8), the terms of these directions will apply to them.

5 Requirement to hold a Permitted Worker Permit to attend a Work Premises

- (1) Subject to the further requirements set out in subclause (3):
 - (a) in accordance with clause 8(1)(a) and (2) of the **Stay At Home Directions (Restricted Areas) (No. 8)**, a person who ordinarily resides in the Restricted Area may only leave the premises where the person ordinarily resides to attend work (whether the work is paid or voluntary, including for charitable or religious purposes) if it is not reasonably practicable for the person to work from the premises at which they ordinarily reside; and
 - (b) in accordance with clause 8(1)(a) and (2) of the **Stay At Home Directions (Non-Melbourne)**, a person who ordinarily resides in the Relevant Area may only leave the premises where the person ordinarily resides to attend work (whether the work is paid or voluntary, including for charitable or religious purposes) if it is not reasonably practicable for the person to work from the premises at which they ordinarily reside; and
 - (c) in accordance with clause 5 of the **Workplace Directions**, an employer must not permit a worker to perform work at the Work Premises where it is reasonably practicable for the worker to work at the worker's place of residence or another suitable premises which is not the Work Premises.
- (2) A person must not leave the premises at which they ordinarily reside:
 - (a) to attend a Work Premises in the Restricted Area (regardless of whether they ordinarily reside in the Restricted Area or not); or
 - (b) attend a Work Premises outside of the Restricted Area, if they ordinarily reside in the Restricted Area,unless:
 - (c) the person has been issued with, and has in their possession, photographic personal identification and a current Permitted Worker Permit issued by a Permitted Employer to perform a Permitted Service; or
 - (d) an exemption in clause 9 applies.

- (3) For the avoidance of doubt, these directions apply to persons who:
 - (a) ordinarily reside in the Restricted Area and are required to attend a Work Premises located within the Restricted Area; and
 - (b) ordinarily reside outside the Restricted Area and are required to attend a Work Premises located within the Restricted Area.

Note: a current Permitted Worker Permit is required in each of these three scenarios.

6 Permitted Employers' duty to issue a Permitted Worker Permit

- (1) In circumstances where clause 5 applies, and subject to clause 9, prior to an employee being permitted to attend work outside of the premises at which they ordinarily reside, a Permitted Employer, which conducts a Permitted Service, must issue the employee with a Permitted Worker Permit, in the approved form.

Note 1: the approved Permitted Worker Permit form is available at:

<https://www.dhhs.vic.gov.au/permitted-worker-permit-covid-19-doc>.

Note 2: a Permitted Employer is only permitted to issue a Permitted Worker Permit to their employee, and not to other persons working in their organisation who are not employees such as a sub-contractor. The Permitted Employer of a sub-contractor is required to authorise that a person is required on-site and to issue that person with a Permitted Worker Permit.

- (2) If a person does not have a Permitted Employer because they are self-employed, a sole-trader, an independent contractor or sub-contractor, or a person appointed to or holding a statutory office, the person must issue themselves with a Permitted Work Permit in the approved form, signed as both the Permitted Employer and the employee.
- (3) An employer must be a Permitted Employer operating or conducting a Permitted Service in order to issue an employee with a Permitted Worker Permit.
- (4) A Permitted Employer must keep a record of all Permitted Worker Permits they have issued during the Permitted Worker Permit Scheme period. A Permitted Employer must, on request, produce this record to an **Authorised Officer**, a Victoria Police Officer or a Protective Services Officer.
- (5) The Permitted Worker Permit must, amongst other things:
 - (a) be in the approved form; and
 - (b) only include details that are, to the best of the Permitted Employer's and employee's knowledge, complete, accurate and not in any way false, misleading or deceptive; and
 - (c) record relevant details of the Permitted Employer including:
 - (i) the Permitted Employer's company name; and
 - (ii) the Permitted Employer's ABN and/or ACN; and
 - (iii) the Permitted Employer's company address; and
 - (iv) the Permitted Employer's trading name; and
 - (v) the address of the Work Premises at which the employee is required to work; and

Note: if there is more than one Work Premises at which the employee is required to attend, this must be accompanied by a record detailing, as far as reasonably practicable, the expected place, date and time of attendance by the employee.

 - (vi) contact details of the Permitted Employer (or an authorised representative of the Permitted Employer) including:
 - (A) contact name; and
 - (B) contact title and role in the business; and
 - (C) telephone number; and
 - (D) contact name and telephone number of a secondary representative of the Permitted Employer; and

- (d) record relevant details of the employee including:
 - (i) the employee's full name; and
 - (ii) the employee's date of birth; and
 - (iii) the employee's address; and
- (e) record the expected dates, hours and duration of work required to be performed by the employee (or, if those details are irregular, the possible dates, hours and duration of work likely to be performed); and
- (f) record the expected rostered hours of work for the employee during the Permitted Worker Permit Scheme period (or, if those details are irregular, the possible dates, hours and duration of work likely to be performed); and
- (g) record the Permitted Service the employee is required to provide; and
- (h) include a signed declaration by the Permitted Employer (or an authorised representative of the Permitted Employer) certifying that:
 - (i) the Permitted Employer has taken all reasonable steps to avoid the necessity for the employee to attend the Work Premises and is of the view that the employee's attendance at the Work Premises is required; and
 - (ii) the Permitted Employer's business is operating a Permitted Service; and
 - (iii) the Permitted Employer's Work Premises and work practices are compliant with all relevant legal obligations, including the public health directions issued under the PHW Act, in place at the relevant time, and the Permitted Employer's obligations under the **OHS Act** (or, where applicable, the *Work Health and Safety Act 2011* (Cth)); and
 - (iv) the Permitted Employer has a COVID Safe Plan, if required under the **Workplace Directions**; and

*Note: an employer is required to have a COVID Safe Plan under the **Workplace Directions** if they require or permit work to be performed at a Work Premises, unless they have fewer than five workers attending the Work Premises.*

 - (v) the Permitted Employer is and will otherwise be operating in accordance with any applicable directions issued under the PHW Act; and
 - (vi) the information contained within the Permitted Worker Permit is true and correct; and

Note 1: the Permitted Employer is not required to certify that the information provided by the employee under subclause (5)(i) is true and correct.

Note 2: the Permitted Employer (or an authorised representative of the Permitted Employer) may sign electronically.

- (i) include a signed declaration by the employee certifying that:
 - (i) their own name and address as contained in the Permitted Worker Permit are true and correct; and
 - (ii) their own work hours and place of work as contained in the Permitted Worker Permit are true and correct; and

Note: the employee may sign electronically.

- (j) be issued, signed and dated by the Permitted Employer (or an authorised representative of the Permitted Employer).

Note 1: the Permitted Worker Permit must be issued by a natural person residing in Victoria, unless there is no such person.

Note 2: the Permitted Employer (or an authorised representative of the Permitted Employer) may sign electronically.

7 Employer obligations

- (1) Subject to clause 9, an employer, including a Permitted Employer, must take all reasonable steps to ensure that a person does not enter, or remain on, their Work Premises if the person is prohibited from doing so by:
 - (a) clause 4; or
 - (b) the **Workplace Directions**; or
 - (c) clause 8.
- (2) An employer, including a Permitted Employer, must comply with any lawful direction given by an Authorised Officer, a Victoria Police Officer or a Protective Services Officer in relation to:
 - (a) these directions; or
 - (b) a Permitted Worker Permit that the employer has issued; or
 - (c) a worker at the employer's Work Premises.
- (3) Where a Permitted Employer requires work to be performed at a Work Premises, the Permitted Employer must keep a record of those who attend the Work Premises in accordance with the **Workplace Directions**.

8 Employee obligations

- (1) Subject to clause 9, a person must not enter, or remain at, a Work Premises:
 - (a) in the Restricted Area; or
 - (b) outside the Restricted Area, if the employee ordinarily resides in the Restricted Area,
if they do not hold a current Permitted Worker Permit.
- (2) An employee must:
 - (a) not leave the premises at which they ordinarily reside to attend work if the employee has not been issued with a current Permitted Worker Permit to attend the Work Premises; and
 - (b) carry the Permitted Worker Permit at all times at which they have left the premises at which they ordinarily reside to perform work;
Note: a person may carry either or both a hardcopy or an electronic copy of the Permitted Worker Permit.
 - (c) carry photographic personal identification at all times at which they have left the premises at which they ordinarily reside to perform work.
- (3) An employee must, on request, produce to an Authorised Officer, a Victoria Police Officer or a Protective Services Officer photographic personal identification and a current Permitted Worker Permit:
 - (a) when they have left the premises in which they ordinarily reside to perform work; and
 - (b) in relation to the employee's attendances at Work Premises.

9 Exemptions

- (1) An employee is permitted to travel to, and enter, a Work Premises, without a current Permitted Worker Permit where:
 - (a) the primary purpose of the employee's travel and attendance at the Work Premises is to obtain their first Permitted Worker Permit from a Permitted Employer; or

- (b) the employee is required to work from the Work Premises on short notice, rendering it impracticable for the employee to receive a current Permitted Worker Permit (or a Permitted Work Permit that includes accurate details as to the employee's work hours or location) prior to attending the Work Premises. In these circumstances, the employee must carry a Permitted Worker Permit in relation to the same Permitted Employer which has expired, is incomplete or applies to another time period, so that if necessary the employee's Permitted Employer can be contacted to verify that the employee is required; or
 - (c) it is not reasonable for the employee to work from their ordinary place of residence because of a risk of harm (including harm relating to family violence or violence of another person at the premises); or
 - (d) in exceptional circumstances, if the employee is carrying a written document (other than in the approved form) that includes all of the details required in clause 6(5) and the approved form (without the employer's certification and signature).
- (2) An adult is permitted to travel to or from a Work Premises without a current Permitted Worker Permit in circumstances where they are transporting a dependant or a person they ordinarily reside with to or from the Work Premises in accordance with a current Permitted Worker Permit in relation to that dependant or other person.
- Note: This encompasses circumstances where, for reasons including because of age, impairment, medical condition, disability, or other reasons, a person is not able to transport themselves to the Work Premises listed on their Permitted Worker Permit and require a parent, guardian, carer or other responsible adult to transport them to their Work Premises.*
- (3) Subject to subclause (4) and (5), the following persons are not required to be issued with, and to hold, a Permitted Worker Permit prior to entering, or remaining at, their Work Premises:
- (a) all Victoria Police employees, Australian Defence Force employees, Australian Criminal Intelligence Commission employees, Australian Border Force employees and Australian Federal Police employees; or
 - (b) emergency service workers, which include officers and employees of:
 - (i) Ambulance Victoria; and
 - (ii) Australian Red Cross; and
 - (iii) Bushfire Recovery Victoria; and
 - (iv) Country Fire Authority; and
 - (v) Emergency Management Victoria; and
 - (vi) Emergency Services Telecommunications Authority; and
 - (vii) Fire Rescue Victoria; and
 - (viii) Forest Fire Management Victoria; and
 - (ix) Life Saving Victoria; and
 - (x) Marine Search and Rescue; and
 - (xi) Victoria State Emergency Service Authority; and
 - (xii) Victorian Institute of Forensic Medicine; or
 - (c) hospital and health workers; or
 - (d) any class of person approved by the Chief Health Officer in writing and subject to any conditions specified by the Chief Health Officer.
- (4) A person is not required to have a Permitted Worker Permit under subclause (3) provided that they have photographic personal identification issued by the organisation which employs or engages them in the capacity set out in subclause (3) and which identifies the person's place of work in that capacity.

- (5) An employee of the category defined in subclause (3) must, on request, produce the photographic personal identification referred to in subclause (4) which identifies the person's place of work to an Authorised Officer, a Victoria Police Officer or a Protective Services Officer.

PART 3 – ACCESS TO ONSITE CHILDCARE/KINDERGARTEN PERMIT SCHEME

10 Access to Onsite Childcare/Kindergarten Permit Scheme period

For the purposes of these directions, the **Access to Onsite Childcare/Kindergarten Permit Scheme period** is the period beginning at 11:59:00 pm on 7 August 2020 and ending at 11:59:00 pm on 16 August 2020.

11 Diagnosed Persons and Close Contacts

- (1) A person who is a diagnosed person or a close contact is not permitted to: hold an **Access to Onsite Childcare/Kindergarten Permit**.
- (2) If a person is notified that they are a diagnosed person or a close contact in accordance with the **Diagnosed Persons and Close Contacts Directions (No. 8)** then their Access to Onsite Childcare/Kindergarten Permit is automatically revoked upon such notification.

Note: once a person has been released or give clearance from self-isolation or self-quarantine in accordance with the Diagnosed Persons and Close Contacts Directions (No. 8), the terms of these directions will apply to them.

12 Requirement to hold an Access to Onsite Childcare/Kindergarten Permit to access onsite childcare/kindergarten

For an employee to access onsite childcare or kindergarten in the Restricted Area they must hold a current and valid Access to Onsite Childcare/Kindergarten Permit, unless an exemption under clause 15 applies.

13 Permitted Employers' duty to issue an Access to Onsite Childcare/Kindergarten Permit

- (1) A Permitted Employer, which conducts a Permitted Service, may issue an employee with an Access to Onsite Childcare/Kindergarten Permit, in the approved form, if the employee has attested that their child and/or dependant cannot otherwise be cared for during work hours by the employee or another responsible adult at the employee's ordinarily place of residence.

Note: the approved Onsite Childcare/Kindergarten Permit form is available at:

<https://www.dhhs.vic.gov.au/access-onsite-childcarekindergarten-permit-covid-19-doc>.

- (2) If a person does not have a Permitted Employer because they are self-employed, a sole-trader, an independent contractor or sub-contractor, or a person appointed to or holding a statutory office, the person may issue themselves with an Access to Onsite Childcare/Kindergarten Permit in the approved form, signed as both the Permitted Employer and the employee.
- (3) A Permitted Employer must keep a record of all Access to Onsite Childcare/Kindergarten Permits they have issued during the Access to Onsite Childcare/Kindergarten Permit Scheme period. A Permitted Employer must, on request, produce this record to an Authorised Officer, a Victoria Police Officer or a Protective Services Officer.
- (4) The Access to Onsite Childcare/Kindergarten Permit must, amongst other things:
- (a) be in the approved form; and
 - (b) only include details that are, to the best of the Permitted Employer's and employee's knowledge, complete, accurate and not in any way false, misleading or deceptive; and

- (c) record relevant details of the Permitted Employer including:
 - (i) the Permitted Employer's company name; and
 - (ii) the Permitted Employer's ABN and/or ACN; and
 - (iii) the Permitted Employer's company address; and
 - (iv) the Permitted Employer's trading name; and
 - (v) contact details of the Permitted Employer (or an authorised representative of the Permitted Employer) including:
 - (A) contact name; and
 - (B) contact title and role in the business; and
 - (C) telephone number; and
 - (D) contact name and telephone number of a secondary representative of the Permitted Employer; and
- (d) record relevant details of the employee including:
 - (i) the employee's full name; and
 - (ii) the employee's date of birth; and
 - (iii) the employees' role; and
 - (iv) the employee's address; and
- (e) include a signed declaration by the Permitted Employer (or an authorised representative of the Permitted Employer) certifying that:
 - (i) the Permitted Employer's business is operating a Permitted Service; and
 - (ii) the information contained within the Permitted Worker Permit is true and correct; and

Note 1: the Permitted Employer is not required to certify that the information provided by the employee under subclause (5)(f) is true and correct.

Note 2: the Permitted Employer (or an authorised representative of the Permitted Employer) may sign electronically.

- (f) include a signed declaration by the employee certifying that:
 - (i) their own name and address as contained in the Access to Onsite Childcare/Kindergarten Permit are true and correct; and
 - (ii) they seek access to onsite childcare and/or kindergarten for their child and/or dependant as they cannot be cared for during work hours by the employee or another responsible adult who resides at the employee's ordinary place of residence; and

Note: the employee may sign electronically.

- (g) be issued, signed and dated by the Permitted Employer (or an authorised representative of the Permitted Employer).

Note 1: the Access to Onsite Childcare/Kindergarten Permit must be issued by a natural person residing in Victoria, unless there is no such person.

Note 2: the Permitted Employer (or an authorised representative of the Permitted Employer) may sign electronically.

14 Employee obligations

- (1) An employee must:
 - (a) not leave the premises at which they ordinarily reside to obtain onsite childcare or kindergarten services, for their child or dependant, if the employee has not been issued with a current Access to Onsite Childcare/Kindergarten Permit; and

- (b) carry the Access to Onsite Childcare/Kindergarten Permit at all times at which they have left the premises at which they ordinarily reside when travelling to or from the onsite childcare or kindergarten service; and
- (c) on request, produce to an Authorised Officer, a Victoria Police Officer or a Protective Services Officer a current Access to Onsite Childcare/Kindergarten Permit:
 - (i) when they have left the premises in which they ordinarily reside to travel to or from the onsite childcare or kindergarten services; and
 - (ii) in relation to the employee's attendances at the onsite childcare or kindergarten service.

Note: a person may carry either or both a hardcopy or an electronic copy of the Access to Onsite Childcare/Kindergarten Permit.

15 Exemptions

- (1) Subject to subclause (2) and (3), the following persons are not required to be issued with, and to hold, an Access to Onsite Childcare/Kindergarten Permit to access and obtain onsite childcare and kindergarten services:
 - (a) all Victoria Police employees, Australian Defence Force employees, Australian Criminal Intelligence Commission employees, Australian Border Force employees and Australian Federal Police employees; or
 - (b) emergency service workers, which include officers and employees of:
 - (i) Ambulance Victoria; and
 - (ii) Australian Red Cross; and
 - (iii) Bushfire Recovery Victoria; and
 - (iv) Country Fire Authority; and
 - (v) Emergency Management Victoria; and
 - (vi) Emergency Services Telecommunications Authority; and
 - (vii) Fire Rescue Victoria; and
 - (viii) Forest Fire Management Victoria; and
 - (ix) Life Saving Victoria; and
 - (x) Marine Search and Rescue; and
 - (xi) Victoria State Emergency Service Authority; and
 - (xii) Victorian Institute of Forensic Medicine; or
 - (c) hospital and health workers; or
 - (d) any class of person approved by the Chief Health Officer in writing and subject to any conditions specified by the Chief Health Officer.
- (2) A person is not required to have an Access to Onsite Childcare/Kindergarten Permit provided that they have photographic personal identification issued by the organisation which employs or engages them in the capacity set out in subclause (1) and which identifies the person's place of work in that capacity.
- (3) An employee of the category defined in subclause (1) must, on request, produce the photographic personal identification referred to in subclause (4) which identifies the person's place of work to an Authorised Officer, a Victoria Police Officer or a Protective Services Officer.

PART 5 – OTHER PROVISIONS**16 Relationship with other directions**

- (1) If there is any inconsistency between these directions and a direction or other requirement contained in a Direction currently in force, these directions are inoperative to the extent of the inconsistency.
- (2) If there is any inconsistency between these directions and a direction or other requirement contained in a **Direction and Detention Notice**, these directions are inoperative to the extent of the inconsistency.

17 Other definitions

For the purposes of these directions:

- (1) **Access to Onsite Childcare/Kindergarten Permit** means a permit issued under clause 13;
- (2) **Access to Onsite Childcare/Kindergarten Permit Scheme** means the scheme established under these directions;
- (3) **Access to Onsite Childcare/Kindergarten Permit Scheme period** means the period specified in clause 10;
- (4) **Authorised Officer** has the same meaning as in section 3 of the PHW Act;
- (5) **Childcare** means onsite early childhood education and care, except where those services are provided in a person's home (for example, family day care);
- (6) **Close Contact** has the same meaning as in the **Diagnosed Persons and Close Contacts Directions (No. 8)**;
- (7) **Diagnosed Person** has the same meaning as in the **Diagnosed Persons and Close Contacts Directions (No. 8)**;
- (8) **Direction and Detention Notice** means a notice given to a person requiring the person to be detained for a specified period;
- (9) **Directions currently in force** means the **Stay at Home Directions (Restricted Areas) (No. 9)**, the **Stay at Home Directions (Non-Melbourne)**, the **Restricted Activity Directions (Restricted Areas) (No. 6)**, the **Restricted Activity Directions (Non 16)**, the **Area Directions (No. 6)**, the **Diagnosed Persons and Close Contacts Directions (No. 8)**, the **Hospital Visitor Directions (No. 9)**, the **Care Facilities Directions (No. 9)** and the **Workplace Directions**;
- (10) **Kindergarten** means onsite early childhood education and care, except where those services are provided in a person's home (for example, family day care);
- (11) **OHS Act** means the *Occupational Health and Safety Act 2004* (Vic.);
- (12) **Permitted Employer** means an organisation or individual which operates a **Permitted Work Premises**;
- (13) **Permitted Services** means the services of the Permitted Work Premises as set out in the 'Stage 4 Restrictions – Permitted Work Premises' available at: www.dhhs.vic.gov.au/business-industry-stage-4-restrictions-covid-19 as amended from time to time by the Victorian Government;
- (14) **Permitted Work Premises** means the Work Premises described as 'PERMITTED WORK PREMISES' set out in the 'Stage 4 Restrictions – Permitted Work Premises' available at: www.dhhs.vic.gov.au/business-industry-stage-4-restrictions-covid-19 as amended from time to time by the Victorian Government.;
- (15) **Permitted Worker Permit** means a permit issued under clause 6;
- (16) **Permitted Worker Permit Scheme** means the scheme established under these directions;

- (17) **Permitted Worker Permit Scheme period** means the period specified under clause 3;
- (18) **PHW Act** means the *Public Health and Wellbeing Act 2008* (Vic.);
- (19) **premises** has the same meaning as in section 3 of the PHW Act;
- (20) **reasonably practicable** is to have its ordinary and common sense meaning;
- (21) **Relevant Area** means the area of Victoria outside the **Restricted Area**;
- (22) **Restricted Area** has the same meaning as in the **Area Directions (No. 6)**;
- (23) **vehicle** has the same meaning as in the PHW Act;
- (24) **Work Premises** means the **premises** of an employer in which work is undertaken, including any **vehicle** whilst being used for work purposes.

18 Penalties

- (1) Section 210 of the PHW Act provides:

False or misleading information

- (1) A person must not –
 - (a) give information that is false or misleading in a material particular; or
 - (b) make a statement that is false or misleading in a material particular; or
 - (c) produce a document that is false or misleading in a material particular – to the Secretary, a Council, the Chief Health Officer or an authorised officer under this Act or the regulations without indicating the respect in which it is false or misleading and, if practicable, providing correct information.

Penalty: In the case of a natural person, 60 penalty units;

In the case of a body corporate, 300 penalty units.

Note: currently, 60 penalty units equals \$9,912.20 and 300 penalty units equals \$49,466.00.

- (2) A person must not make an entry in a document required to be kept by this Act or the regulations that is false or misleading.

Penalty: In the case of a natural person, 60 penalty units;

In the case of a body corporate, 300 penalty units.

- (3) In a proceeding for an offence against subsection (1) or (2) it is a defence to the charge for the accused to prove that at the time at which the offence is alleged to have been committed, the accused believed on reasonable grounds that the information, statement or document was true or was not misleading.

- (2) 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.

Note: currently, 120 penalty units equals \$19,826.40 and 600 penalty units equals \$99,132.00.

- (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.

- (3) A person who fails to comply with these directions is liable for an on-the-spot fine of:

- (a) \$1,600 in the case of a natural person; or
- (b) \$9,900 in the case of a body corporate.

- (4) Additionally, a person who fails to comply with these directions may in certain circumstances be liable to prosecution under the PHW Act for the maximum penalties outlined in subclause (2).
- (5) If the content of a Permitted Worker Permit is suspected to be fraudulent criminal investigations may be considered.

Dated 8 August 2020

DR FINN ROMANES
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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