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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 (Additional Industry Obligations) Directions (No. 3)

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 **Directions currently in force**.
- (4) These directions are intended to supplement any obligation an employer may have under the **OHS Act**, the **Workplace Directions (No. 2)** and the **Permitted Worker Permit Scheme Directions (No. 2)** and are not intended to derogate from any such obligations.
- (5) These directions replace the **Workplace (Additional Industry Obligations) Directions (No. 2)** and further clarify existing obligations and impose additional obligations.

2 Citation

- (1) These directions may be referred to as the **Workplace (Additional Industry Obligations) Directions (No. 3)**.
- (2) The **Workplace (Additional Industry Obligations) Directions (No. 2)** are revoked at 11:59:00 pm on 11 August 2020.

3 Relationship with other directions

- (1) 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.
- (2) 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.
- (3) A reference in any other Directions currently in force or any Direction and Detention Notice to the **Workplace (Additional Industry Obligations) Directions** or the **Workplace (Additional Industry Obligations) Directions (No. 2)** is taken to be a reference to these directions.

4 Commencement

These directions commence at 11:59:00 pm on 11 August 2020 and end at 11:59:00 pm on 16 August 2020.

SPECIAL

5 Application of directions to certain employers and roles

(1) These directions apply to **Additional Obligation Industries**, namely:

- (a) **poultry processing facilities**; and
- (b) **abattoirs and meat processing facilities**; and
- (c) **seafood processing facilities**; and
- (d) **supermarkets**; and
- (e) **medical supply, pharmaceutical supply and personal protective equipment supply facilities**; and
- (f) warehousing and distribution centres; and
- (g) **construction**; and
- (h) **retail facilities**.

Note: each of these industries is described in the document titled '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) in the following categories in square brackets:

- *Poultry processing facilities [Meat and meat product manufacturing];*
- *Abattoirs and 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 supply and personal protective equipment supply 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 and distribution centres [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 meat processing facilities and seafood processing facilities, 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; and
- (b) manager; and
- (c) persons carrying out roles necessary to the functioning of the Work Premises; and
- (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; or

*Note: clause 7 of the **Workplace Directions (No. 2)** requires 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 at the worker's place of residence or another suitable premises which is not the Work Premises.*

- (g) undertaking emergency repairs and emergency maintenance; or

- (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 their obligations under the **Workplace Directions (No. 2)** or these directions; or
- (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 construction 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 subclause 5(3).
- (5) Workers under subclause 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 workers 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 (13 week) consecutive period in the last 12 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 workers:

(a) 4:00 am to 10:00 am: 120 workers

(b) 10:30 am to 4:30 pm: 100 workers

(c) 5:00 pm to 11:00 pm: 80 workers

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

- (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.
- (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 subclause 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; and
 - (b) all logs created during the time these directions are in place; and
 - (c) Work Premises rosters; and
 - (d) time and attendance records; and
 - (e) payroll data; and
 - (f) 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.

Consultation

- (7) An employer in relation to an Additional Obligation Industry Work Premises (except for retail facilities) must, to the extent reasonably practicable, consult with health and safety representatives, together with workers who are, or are likely to be, directly affected:
 - (a) to identify or assess risks to health or safety at a workplace; and
 - (b) to make decisions about the measures to be taken to control risks to health and safety; and
 - (c) to determine if the risks identified under subclause 6(7)(a) is either under the employer's management and control or arises from the employer's conduct; and
 - (d) to make decisions about the adequacy of facilities for the welfare of workers; and
 - (e) in making decisions about the procedure to resolve health and safety issues: and
 - (i) the procedures around health and safety consultation itself; and
 - (ii) the procedures to monitor the health of workers and the conditions of the workplace; and
 - (iii) procedures to provide information and training to workers;

- (f) by a change to:
 - (i) the workplace; or
 - (ii) the plant, substances, or other things used at a workplace; or
 - (iii) the conduct of work performed at the workplace.

7 Additional Industry Obligations

- (1) An employer in relation to an Additional Obligation Industry Work Premises (except for retail facilities) must:
 - (a) have a personal protective equipment training plan in place as soon as reasonably practicable after 11 August 2020 that:
 - (i) is consistent with best practice training plans; and
 - (ii) is provided to workers in multiple formats (for example, infographics and text); and
 - (iii) is accessible for multilingual workers;
Note: use of pre-existing materials and other guidance is acceptable.
 - (b) have a cleaning log on display in all shared workplaces and publicly accessible areas which sets out:
 - (i) dates, times and frequency the relevant area has been cleaned, including frequently touched surfaces, toilets and handrails; and
 - (ii) shift or other relevant worker group changes (where applicable) to show that relevant areas have been cleaned in between shift changes;
 - (c) require workers to declare in writing at the start of each shift but before entering a Work Premises that the worker:
 - (i) is free of 2019-nCoV related symptoms;
 - (ii) has not been in contact with a confirmed case; and
 - (iii) has not been directed to self-isolate or self-quarantine by an Authorised Officer.
- (2) Workers must not attend a Work Premises if they have been tested for COVID because they are symptomatic whilst awaiting the result of that test or while their symptoms persist.
- (3) An employer in relation to an Additional Obligation Industry Work Premises (except for retail facilities and construction sites (noting these industries are still subject to obligations under the **Workplace Directions (No. 2)**)) must increase the regularity of comprehensive cleaning by ensuring all areas where workers are working are **cleaned** at least daily.

Additional health screening for abattoirs and meat processing facilities, poultry processing facilities and seafood processing facilities

- (4) In relation to the Work Premises that is an abattoir, meat processing facility, poultry processing facility or seafood processing facility an employer must:
 - (a) ensure that all workers at the Work Premises wear the appropriate level of **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 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; and
- (b) subject to clause 7(35)(c)(ii), ensure that workers do not work across multiple Work Premises, in accordance with the requirements in clauses 7(17) to (20) of the **Workplace Directions (No. 2)**; and
- (c) 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; and
- (d) advise workers to be tested for 2019-nCoV if symptomatic and to self-isolate whilst awaiting the result of that test; and
- (e) follow any directions from the Department of Health and Human Services in relation to observing workers for symptoms and testing of workers.
- (5) A worker who attends a Work Premises that is an abattoir, meat processing facility, poultry processing facility or seafood 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

- (6) 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.
- (7) The **Chief Veterinary Officer** may grant an exemption in writing to the requirements of subclause 7(6).

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 facilities to 'scale-up' capacity.

Poultry processing facilities outside the Restricted Area

- (8) An employer may only operate a Work Premises that is a poultry processing facility outside the Restricted Area by reducing:
- (a) the daily peak workforce capacity and the daily total workforce capacity in accordance with subclause 7(6); or
 - (b) the weekly peak workforce capacity and weekly total workforce capacity by 20 per cent or to 25 workers, whichever is higher, if animal welfare issues exist that need to be managed and the employer has notified the Chief Veterinary Officer.
- (9) The Chief Veterinary Officer may grant an exemption in writing to the requirements of subclause 7(8).

Example 1: 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 facilities to 'scale-up' capacity.

- (10) In relation to a Work Premises that is a poultry processing facility outside the Restricted Area, the **weekly peak workforce capacity** is calculated by taking the average of the peak number of workers at the Work Premises over a seven-day period, averaged across all weeks in:

- (a) July 2020 (the weeks starting 29 June 2020 and ending 2 August 2020); or
(b) any three-month (13 week) consecutive period in the last 12 months, but will only include the days of a week that the poultry processing facility would normally operate.

Example

Over one week, a poultry processing facility had staff working over three shifts with no cross-over of staff on five days:

4.00 am to 10.00 am: 120 staff

10.30 am to 4.30 pm: 100 staff

5.00 pm to 11.00 pm: 80 staff

The weekly average peak workforce capacity for this week is the average of the five daily peaks, which is 120 workers.

Undertake the same calculation for every week of either July 2020 (the weeks starting 29 June 2020 to 2 August 2020), or any 13-week continuous period in the last 12 months. Then, find the average of these figures to calculate the weekly peak workforce over the period.

- (11) In relation to a Work Premises that is a poultry processing facility outside the Restricted Area, the **weekly total workforce capacity** is calculated by taking the sum of the daily number of workers at the Work Premises over a seven-day period, averaged across all weeks in:

- (a) July 2020 (the weeks starting 29 June 2020 and ending 2 August 2020); or
(b) any three-month (13 week) consecutive period in the last 12 months, but will only include the days of a week that the poultry processing facility would normally operate.

Example

On one day, a poultry processing facility had people onsite, including employees, contractors and labour hire, working over three shifts with no cross-over of staff:

4.00 am to 10.00 am: 120 staff

10.30 am to 4.30 pm: 100 staff

5.00 pm to 11.00 pm: 80 staff

The daily total workforce capacity on this day is 300 workers. If it ran this shift structure over five days, the weekly total workforce would be 1,500.

Undertake the same calculation for every week of either July 2020 (the weeks starting 29 June 2020 to 2 August 2020), or any 13-week continuous period in the last 12 months. Then, find the average of these figures to calculate the weekly total workforce over the period.

Abattoirs and meat processing facilities

- (12) 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.
- (13) The Chief Veterinary Officer may grant an exemption in writing to the requirements of subclause 7(12).

Example 1: 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 abattoirs or meat processing facilities to 'scale-up' capacity.

Abattoirs and meat processing facilities outside the Restricted Area

- (14) An employer may only operate a Work Premises that is an abattoir or meat processing facility outside the Restricted Area by reducing:

- (a) the daily peak workforce capacity and the daily total workforce capacity in accordance with subclause 7(12); or
 - (b) the weekly peak workforce capacity and weekly total workforce capacity by 33 per cent or to 25 workers, whichever is higher, if animal welfare issues exist that need to be managed and the employer has notified the Chief Veterinary Officer.
- (15) The Chief Veterinary Officer may grant an exemption in writing to the requirements of subclause 7(14).

Example 1: 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 abattoirs or meat processing facilities to 'scale-up' capacity.

- (16) In relation to a Work Premises that is an abattoir or meat processing facility outside the Restricted Area, the weekly peak workforce capacity is calculated by taking the average of the peak number of workers at the Work Premises over a seven-day period for, averaged across all weeks in:

- (a) July 2020 (the weeks starting 29 June 2020 and ending 2 August 2020); or
 - (b) any three-month (13 week) consecutive period in the last 12 months,
- but will only include the days of a week that the abattoir or meat processing facility would normally operate.

Example

Over one week, a meat processing facility had staff working over three shifts with no cross-over of staff on five days:

4.00 am to 10.00 am: 120 staff

10.30 am to 4.30 pm: 100 staff

5.00 pm to 11.00 pm: 80 staff

The weekly average peak workforce capacity for this week is the average of the five daily peaks, which is 120 workers.

Undertake the same calculation for every week of either July 2020 (the weeks starting 29 June 2020 to 2 August 2020), or any 13-week continuous period in the last 12 months. Then, find the average of these figures to calculate the weekly peak workforce over the period.

- (17) In relation to a Work Premises that is an abattoir or meat processing facility outside the Restricted Area, the weekly total workforce capacity is calculated by taking the sum of the daily number of workers at the Work Premises over a seven-day period, averaged across all weeks in:

- (a) July 2020 (the weeks starting 29 June 2020 and ending 2 August 2020); or
 - (b) any three-month (13 week) consecutive period in the last 12 months,
- but will only include the days of a week that the abattoir or meat processing facility would normally operate.

Example

On one day, a meat processing facility had people onsite, including employees, contractors and labour hire, working over three shifts with no cross-over of staff:

4.00 am to 10.00 am: 120 staff

10.30 am to 4.30 pm: 100 staff

5.00 pm to 11.00 pm: 80 staff

The daily total workforce capacity on this day is 300 workers. If it ran this shift structure over five days, the weekly total workforce would be 1,500.

Undertake the same calculation for every week of either July 2020 (the weeks starting 29 June 2020 to 2 August 2020), or any 13-week continuous period in the last 12 months. Then, find the average of these figures to calculate the weekly total workforce over the period.

Seafood processing facilities

- (18) 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.
- (19) The Chief Veterinary Officer may grant an exemption in writing to the requirements of subclause 7(18).

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

Seafood processing facilities outside the Restricted Area

- (20) An employer may only operate a Work Premises that is a seafood processing facility outside the Restricted Area by reducing:
- (a) the daily peak workforce capacity and the daily total workforce capacity in accordance with subclause 7(18); or
 - (b) the weekly peak workforce capacity and weekly total workforce capacity by 33 per cent or to 40 workers, whichever is higher, if animal welfare issues exist that need to be managed and the employer has notified the Chief Veterinary Officer.
- (21) The Chief Veterinary Officer may grant an exemption in writing to the requirements of subclause 7(20).

Example 1: the Chief Veterinary Officer may grant an exemption in circumstances where an outbreak requires the closure of a seafood processing facility, requiring other seafood processing facilities to 'scale-up' capacity.

- (22) In relation to a Work Premises that is a seafood processing facility outside the Restricted Area, the weekly peak workforce capacity is calculated by taking the average of the peak number of workers at the Work Premises over a seven-day period, averaged across all weeks in:
- (a) July 2020 (the weeks starting 29 June 2020 and ending 2 August 2020); or
 - (b) any three-month (13 week) consecutive period in the last 12 months,
- but will only include the days of a week that the seafood processing facility would normally operate.

Example

Over one week, a seafood processing facility had staff working over three shifts with no cross-over of staff on five days:

4.00 am to 10.00 am: 120 staff

10.30 am to 4.30 pm: 100 staff

5.00 pm to 11.00 pm: 80 staff

The weekly average peak workforce capacity for this week is the average of the five daily peaks, which is 120 workers.

Undertake the same calculation for every week of either July 2020 (the weeks starting 29 June 2020 to 2 August 2020), or any 13-week continuous period in the last 12 months. Then, find the average of these figures to calculate the weekly peak workforce over the period.

- (23) In relation to a Work Premises that is a seafood processing facility outside the Restricted Area, the weekly total workforce capacity is calculated by taking the sum of the daily number of workers at the Work Premises over a seven-day period, averaged across all weeks in:
- (a) July 2020 (the weeks starting 29 June 2020 and ending 2 August 2020); or
 - (b) any three-month (13 week) consecutive period in the last 12 months,
- but will only include the days of a week that the seafood processing facility would normally operate.

Example

On one day, a seafood processing facility had people onsite, including employees, contractors and labour hire, working over three shifts with no cross-over of staff:

4.00 am to 10.00 am: 120 staff

10.30 am to 4.30 pm: 100 staff

5.00 pm to 11.00 pm: 80 staff

The daily total workforce capacity on this day is 300 workers. If it ran this shift structure over five days, the weekly total workforce would be 1,500.

Undertake the same calculation for every week of either July 2020 (the weeks starting 29 June 2020 to 2 August 2020), or any 13-week continuous period in the last 12 months. Then, find the average of these figures to calculate the weekly total workforce over the period.

Supermarkets and perishable food warehouses and distribution facilities

(24) In relation to supermarkets 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:
 - (i) a Work Premises that is predominantly a perishable food facility; and
 - (ii) 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;
- (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.

(25) An employer may only operate its supermarket Work Premises or perishable food Work Premises if it reduces its supermarket or perishable food daily peak workforce capacity and supermarket or perishable food daily total workforce capacity by 33 percent across the supermarket or perishable food Work Premises.

Example: if a supermarket distribution facility has a daily peak workforce capacity of 300 workers and a daily total workforce capacity of 600 workers, then the employer must reduce its daily peak workforce capacity by 100 workers and its 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.

(26) In relation to a Work Premises that is a supermarkets and perishable foods chilled distribution facility, an employer must ensure that all workers at the Work Premises wear a surgical face mask. Where there is a risk to food supply, the Chief Executive Officer of Agriculture Victoria may recommend a variation to the requirements of subclause 7(25) for specific supermarket Work Premises and / or perishable food Work Premises, including any conditions on the variation, to the Chief Health Officer.

(27) Upon considering a recommendation from the Chief Executive Officer of Agriculture Victoria under subclause 7(26), the Chief Health Officer may approve the recommendation and communicate that approval to the relevant employer.

Warehousing and distribution centres

(28) Subject to subclause 7(31), an employer may only operate a Work Premises that is a warehousing and distribution centre if it reduces its daily peak workforce capacity by at least 33 percent and daily total workforce capacity by at least 10 percent.

Note: subclause 7(28) does not apply to supermarket warehousing and distribution centres, which are dealt with under subclauses 7(24) and (25).

(29) The requirements of subclause (28) do not apply to workers whose primary place of work is not in the warehousing or distribution centre, including line haul or delivery drivers.

- (30) In relation to a Work Premises that is a chilled distribution facility, an employer must ensure that all workers at the Work Premises wear a surgical face mask.

Medical supply, pharmaceutical supply and personal protective equipment supply facilities

- (31) An employer may only operate a Work Premises that is a manufacturing, warehousing or distribution centre in relation to medical supply, pharmaceutical supply and personal protective equipment supply facilities if it reduces its daily peak workforce capacity and daily total workforce capacity by at least 33 percent.

- (32) A medical supply, pharmaceutical supply and personal protective equipment supply facility 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(31) by reducing workers in any of its medical supply, pharmaceutical supply and personal protective equipment supply facility Work Premises.

Example: if a medical supply distribution facility has a daily peak workforce capacity of 300 workers and daily total workforce capacity of 600 workers, then the employer must reduce its daily peak workforce capacity by 100 workers and its 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.

- (33) Subclauses 7(31) and 7(32) do not apply to a **pharmaceutical warehouse**.
- (34) In relation to a Work Premises that is a medical supplies, pharmaceutical supplies and personal protective equipment supplies chilled distribution facility, an employer must ensure that all workers at the Work Premises wear a surgical face mask.

Construction sites

- (35) In relation to construction sites:
- (a) A **construction site** is a Work Premises at which civil works, building or construction activities take place; and
 - (b) **critical and essential infrastructure** means:
 - (i) construction or maintenance (including civil works, building or construction 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 it is urgently required for the purposes of sustaining human health, safety and wellbeing, on a case by case basis; or
 - (ii) activities deemed by the Victorian Government from time to time as “State Critical Infrastructure Projects”; or
 - (iii) construction for the purposes of national security or defence; and
 - (c) The requirements of the **Workplace Directions (No. 2)** apply to Work Premises that are a construction site, including:
 - (i) subject to subclause 7(39), the **density quotient**; and
 - (ii) the face coverings and cleaning requirements in the **Workplace Directions (No. 2)**, and
 - (d) An employer in relation to a Work Premises that is a construction site must comply with the applicable worker 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 set out in the ‘Stage 4 Restrictions – Permitted Work Premises’ available at: <https://www.dhhs.vic.gov.au/business-industry-stage-4-restrictions-covid-19> as amended from time to time by the Victorian Government); and

- (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** who can move between up to 3 construction sites per week; or
 - (iii) specialists who provide safety services.

Small-scale construction sites

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

Early stage residential land development sites

- (38) 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).
- (39) An employer may only operate a Work Premises that is an early stage residential land development site if there are 10 workers (or fewer) per hectare on the Work Premises at any one time.
- (40) Once subdivision occurs, the construction of a 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.
- (41) 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

- (42) 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 1,500 m² 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.
- (43) 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.
- (44) The project lifecycle commences from the date of on-site mobilisation and ends at handover.
- (45) An employer must not operate a large-scale construction site in excess of 25 percent of the large-scale construction baseline daily workforce or 5 workers, whichever is higher.

Retail facilities

- (46) 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.
- (47) If there is any inconsistency between subclause 7(46) and the **Restricted Activity Directions (Restricted Areas) (No. 6) or the Restricted Activity Directions (Non-Melbourne)**, subclause 7(46) 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 Directions (No. 2)**;
- (7) **confirmed case** means a worker diagnosed with 2019-nCoV;
- (8) **construction site** has the meaning in clause 7(35)(a);
- (9) **critical and essential infrastructure** has the meaning in clause 7(35)(b);
- (10) **daily peak workforce capacity** has the meaning in clause 5(6);
- (11) **daily total workforce capacity** has the meaning in clause 5(7);
- (12) **density quotient** has the same meaning as in the **Workplace Directions (No. 2)**;
- (13) **Direction and Detention Notice** means a notice given to a person requiring the person to be detained for a specified period;
- (14) **Directions currently in force** means the **Stay at Home Directions (Restricted Areas) (No. 10)**, 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 Direction (No. 9)**, the **Permitted Worker Permit Scheme Directions (No. 2)** and the **Workplace Directions (No. 2)**, as amended or replaced from time to time;
- (15) **early stage residential land development site** has the meaning in clause 7(38);
- (16) **employee** includes a person who is self-employed;
- (17) **employer** means a person who owns, operates or controls a Work Premises and includes a person who is self-employed or a sole-trader;
- (18) **High Risk COVIDSafe Plan** has the meaning in clause 6(2);
- (19) **Inspector** has the same meaning as in the OHS Act;
- (20) **large-scale construction site** has the meaning in clause 7(42);
- (21) **meat processing facility** has the meaning under the PrimeSafe licence category “further meat processing facilities”;
- (22) **medical supply, pharmaceutical supply, and personal protective equipment supply facility** 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;

- (23) **OHS Act** means the **Occupational Health and Safety Act 2004**;
- (24) **outbreak** means:
- (a) a single confirmed case of 2019-nCoV in a resident, staff member or frequent attendee of a residential and aged care facility; or
 - (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. In some circumstances, the Department of Health and Human Services 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.*
- (25) **perishable food Work Premises** means the total of all perishable food warehouses and distribution facilities;
- (26) **Permitted Work Premises** means Work Premises described as ‘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;
- (27) **personal protective equipment** has the same meaning as in the **Occupational Health and Safety Regulations 2017**;
- (28) **pharmaceutical warehouse** means a warehouse that is licensed under the **Poisons and Therapeutic Goods Act 1966** of New South Wales 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;
- (29) **PHW Act** means the **Public Health and Wellbeing Act 2008**;
- (30) **poultry processing facility** has the meaning under the PrimeSafe licence category “poultry meat processing facilities”;
- (31) **premises** has the same meaning as in the PHW Act;
- (32) **reasonably practicable** is to have its ordinary and common sense meaning;
- (33) **records requirement** has the same meaning as in the **Workplace Directions (No. 2)**;
- (34) **Restricted Area** has the same meaning as in the **Area Directions (No. 6)**;
- (35) **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**;
- (36) **retail shopping centre** has the same meaning as in the **Retail Leases Act 2003**;
- (37) **seafood processing facility** has the meaning under the PrimeSafe licence category “seafood processing facilities”;
- (38) **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;
- (39) **small-scale construction site** has the meaning in clause 7(36);
- (40) **specialist contractor** means:
- (a) Asphalters;
 - (b) Carpenters;
 - (c) Plasterers;
 - (d) Carpet layers;
 - (e) Sprinkler fitters;

- (f) Solar installers;
 - (g) Security system installers;
 - (h) Mobile Cranes – Operators and dogmen;
 - (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;
- (41) **supermarket** has the same meaning as “supermarket business” in the PHW Act, and includes supermarket distribution;
- (42) **supermarket or perishable food daily peak workforce capacity** has the meaning in clause 7(24)(c);
- (43) **supermarket or perishable food daily total workforce capacity** has the meaning in clause 7(24)(d);
- (44) **vehicle** has the same meaning as in the PHW Act;
- (45) **weekly peak workforce capacity** has the meaning in clause 7(10);
- (46) **weekly total workforce capacity** has the meaning in clause 7(11);
- (47) **Work Premises** means the premises of an employer in which work is undertaken, including any vehicle whilst being used for work purposes; and
- (48) **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 11 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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