



# Victoria Government Gazette

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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. 12)

I, Dr Finn Romanes, Public Health Commander, consider it reasonably 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 (**SARS-CoV-2**) 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 establish additional specific obligations on **employers** and **workers** in specific industries in relation to managing the risk associated with SARS-CoV-2.
- (3) These directions must be read together with the **Directions currently in force**.
- (4) These directions are intended to supplement any obligations an employer may have under the **OHS Act** and the **Workplace Directions (No. 9)** and are not intended to derogate from any such obligations.
- (5) These directions replace the **Workplace (Additional Industry Obligations) Directions (No. 11)** and clarify the requirements for additional health screening for abattoirs and meat processing facilities, poultry processing facilities and seafood processing facilities.

#### 2 Citation

These directions may be referred to as the **Workplace (Additional Industry Obligations) Directions (No. 12)**.

#### 3 Revocation

The **Workplace (Additional Industry Obligations) Directions (No. 11)** are revoked at 11:59:00 pm on 15 November 2020.

#### 4 Commencement

These directions commence at 11:59:00 pm on 15 November 2020 and end at 11:59:00 pm on 6 December 2020.

#### 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) **supermarket Work Premises and perishable food Work Premises**; and
  - (e) **warehousing and distribution centres**; and
  - (f) **manufacturing facilities**; and
  - (g) **wholesale facilities**; and

**SPECIAL**

- (h) horticulture operations using **seasonal workers for seasonal horticultural work**; and
- (i) **care facilities**.

*Note: each of the Additional Obligation Industries is a high-risk industry for the purposes of control arrangements made under the **Emergency Management Act 2013**.*

- (2) These directions apply to Additional Obligation Industries Work Premises that are located:
  - (a) in relation to warehousing and distribution centres, manufacturing facilities, wholesale facilities, supermarket Work Premises and perishable food Work Premises, in **Metropolitan Melbourne**; and
  - (b) in relation to all other Additional Obligation Industries not referred to in subclause (2)(a), anywhere in Victoria.

## 6 High Risk COVIDSafe Plan

- (1) Each Additional Obligation Industry Work Premises (except for manufacturing facilities), and **labour hire providers** (to the extent they provide any onsite services for seasonal workers such as transport or accommodation), must have a **High Risk COVIDSafe Plan**.

*Note 1: where a Work Premises includes operations in relation an Additional Obligation Industry and another industry, the Work Premises must still have a High Risk COVIDSafe Plan to the extent these directions require a High Risk COVIDSafe Plan.*

*Note 2: a High Risk COVIDSafe Plan in relation to seasonal horticultural workers will be called a **Seasonal Horticultural Worker COVIDSafe Plan**.*

- (1A) This clause 6 does not apply to care facilities, except for subclauses (5) and (5A).
 

*Note: the exception of care facilities from the requirements in clause 6 (other than in subclauses (5) and (5A)) does not exempt care facilities from satisfying equivalent requirements imposed under other regulatory arrangements.*
- (2) A **High Risk COVIDSafe Plan** is comprised of the form accessible from the following website [www.coronavirus.vic.gov.au/high-risk-covidsafe-plan](http://www.coronavirus.vic.gov.au/high-risk-covidsafe-plan) (as amended from time to time by the Victorian Government).
- (3) An 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 (but not limited to):
    - (i) following an outbreak of **confirmed cases** of SARS-CoV-2 at a Work Premises;
    - (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 (but not limited to):
  - (a) the High Risk COVIDSafe Plan;
  - (b) all logs created during the time these directions are in place;
  - (c) Work Premises rosters;
  - (d) time and attendance records;
  - (e) payroll data;
  - (f) records of all workers and all visitors who attend the Work Premises in accordance with the **records requirement**.

- (5A) In collecting the information outlined in subclause (5), 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**, unless another statutory requirement permits or requires the personal information to be retained.

#### *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 any risk identified under subclause (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 procedures to resolve health and safety issues, including (but not limited to):
    - (i) procedures around health and safety consultation itself;
    - (ii) procedures to monitor the health of workers and the conditions of the workplace;
    - (iii) procedures to provide information and training to workers; and
  - (f) by a change to:
    - (i) a workplace; or
    - (ii) the plant, substances, or other things used at a workplace; or
    - (iii) the conduct of work performed at a workplace.

## 7 **Additional Industry Obligations**

- (1) An employer in relation to an Additional Obligation Industry Work Premises (except for care 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; and

*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) the dates, times and frequency with which the relevant area has been **cleaned**, including (but not limited to) frequently touched surfaces, toilets and handrails; and
  - (ii) shifts or other relevant worker group changes (where applicable) to show that relevant areas have been cleaned in between shift changes; and
- (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 **SARS-CoV-2 Symptoms**; and
  - (ii) has not been in contact with a confirmed case; and
  - (iii) is not currently required to **self-isolate** or **self-quarantine** in accordance with the **Diagnosed Persons and Close Contacts Directions (No. 13)**.

*Note: the exception of care facilities from the requirements in subclause (1) does not exempt care facilities from satisfying equivalent requirements imposed under other regulatory arrangements.*

- (2) Workers must not attend a Work Premises if they have been tested for SARS-CoV-2 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 care facilities) must increase the regularity of comprehensive cleaning by ensuring all areas where workers are working are cleaned at least daily.

*Note: the exception of care facilities from the requirements in subclause (3) does not exempt care facilities from satisfying equivalent requirements imposed under other regulatory arrangements.*

*Additional health screening for abattoirs and meat processing facilities, poultry processing facilities, seafood processing facilities, supermarket Work Premises, and perishable food Work Premises that are chilled distribution facilities*

- (4) In relation to a Work Premises that is an abattoir, meat processing facility, poultry processing facility, seafood processing facility, supermarket Work Premises, or a perishable food Work Premises that is a chilled distribution facility, an employer must:
  - (a) carry out surveillance testing on its workers for SARS-CoV-2 at a Work Premises in accordance with the requirements of the Department of Health and Human Services; and
  - (b) designate an **employee** or employees as a **COVID Marshal**:
    - (i) whose role is to monitor compliance with these directions, including (but not limited to) physical distancing requirements; and
    - (ii) who has successfully completed training provided by the employer that is in accordance with guidance from the Department of Health and Human Services; and
  - (c) arrange operations at the Work Premises so as to have workers working consistently with the same group of other workers where reasonably practicable, including (but not limited to):
    - (i) developing separate shifts in a way that minimises physical interactions between groups of workers attending different shifts;
    - (ii) separates workers into work areas;
    - (iii) dividing work areas up further into separate teams;
    - (iv) providing separate break areas for the separate teams;
    - (v) requiring teams to use separate entrances and exits from other teams;

- (vi) having a COVID Marshal(s) at the Work Premises whenever workers are on site;
- (vii) where workers are from the same household, ensuring they work in the same shift and work area; and
- (d) provide regular training to workers (including, but not limited to, an induction for all workers commencing at, or returning to, the Work Premises) that covers:
  - (i) good hygiene practices; and
  - (ii) advising workers not to attend the Work Premises when unwell; and
  - (iii) compliance with the requirements of subclause (4)(c); and
- (e) carry out comprehensive cleaning of the Work Premises each evening; and
- (f) keep records of surveillance testing of workers for SARS-CoV-2; and
- (g) keep records of duty rosters for COVID Marshals.

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

- (5) In relation to a 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 SARS-CoV-2 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 a surgical face mask, a face shield and/or protective clothing in the Work Premises or the nature of a worker's work means that it creates a risk to their health and safety; and
  - (b) 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 SARS-CoV-2; and
    - (iii) self-isolate until a negative test result is received; and
  - (d) advise workers to be tested for SARS-CoV-2 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.
- (6A) 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 for the purpose of getting to and from a Work Premises unless it is not otherwise reasonably practicable for that worker or the other person to do so.

*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.*

*Metropolitan Melbourne*

- (6) In relation to **supermarkets** and perishable food warehouses and distribution facilities in Metropolitan Melbourne:
- (a) **supermarket Work Premises** means the total of all supermarket distribution facilities;
  - (b) **perishable food Work Premises** means a Work Premises that is predominantly a perishable food facility that is a chilled distribution facility.
- (7) In relation to any supermarket Work Premises or perishable food Work Premises that is a chilled distribution facility in Metropolitan Melbourne, an employer must ensure that all workers at the supermarket Work Premises or perishable food Work Premises (as applicable) wear a surgical face mask, unless the nature of a worker's work means that it creates a risk to their health and safety.

*Note: surgical face masks may create a risk to health and safety in those parts of a chilled distribution facility where the temperature is below negative 5°C. If a surgical face mask cannot be worn, the employer is still required to ensure an employee uses a suitable fitted face covering, such as a cloth mask of three plies.*

*Warehousing and distribution centres*

- (8) In relation to a Work Premises that is a chilled distribution facility in relation to warehousing and distribution centres, an employer must ensure that all workers at the Work Premises wear a surgical face mask, unless the nature of a worker's work means that it creates a risk to their health and safety.

*Note: surgical face masks may create a risk to health and safety in those parts of a chilled distribution facility where the temperature is below negative 5°C. If a surgical face mask cannot be worn, the employer is still required to ensure an employee uses a suitable fitted face covering, such as a cloth mask of three plies.*

*Horticulture Work Premises using seasonal workers for seasonal horticultural work*

- (9) An employer may only operate a **seasonal Work Premises** using seasonal workers for seasonal horticultural work if it complies with subclauses (10) to (20) (inclusive).
- (10) In relation to a seasonal Work Premises, an employer must:
- (a) carry out surveillance testing on its seasonal workers for SARS-CoV-2 at a seasonal Work Premises in accordance with the requirements of the Department of Health and Human Services; and
  - (b) keep written records of surveillance testing of seasonal workers for SARS-CoV-2 and have them available for inspection by an Authorised Officer upon request.
- (11) In collecting the information outlined in subclause (10), 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 receipt of the information by the employer, unless another statutory requirement permits or requires the personal information to be retained.
- (12) The employer must arrange operations at the Work Premises so as to have seasonal workers working consistently with the same group of other workers where reasonably practicable, including (but not limited to):
- (a) developing separate shifts in a way that minimises physical interactions between groups of workers attending different shifts;
  - (b) separate workers into work areas;
  - (c) dividing work areas up further into separate teams;
  - (d) providing suitable separate break areas for the separate teams including, to the extent possible, outdoor break areas with shade;



- (e) where workers are from the same household, ensuring they work in the same shift and work area.

*Note: to the extent it is the reasonably practicable, there should be no mixing of the worker 'bubbles' on site. Workers within a bubble should work and take breaks together. In addition, worker bubbles should, to the extent that is reasonably practicable, be maintained with respect to accommodation and transport.*

- (13) In addition to the requirements of the Seasonal Horticultural Worker COVIDSafe Plan, the employer must record on a daily basis the roster of workers, including the work areas, work teams and breaks taken for each worker bubble.
- (14) The employer must provide training to seasonal workers (including, but not limited to, an induction for all workers commencing at, or returning to, the Work Premises) that covers:
  - (a) good hygiene practices; and
  - (b) advising workers not to attend the Work Premises when unwell; and
  - (c) compliance with the requirements of subclause (12).
- (15) The employer must carry out cleaning of the seasonal Work Premises each evening and provide:
  - (a) clean water and soap for washing hands; and
  - (b) well-maintained toilet facilities,for workers, in a location or locations that are reasonably adjacent to work areas and, as far as is practicable, separate from the employer's **premises** or farm homestead.
- (16) In relation to seasonal Work Premises, an employer must:
  - (a) make available an adequate supply of **face coverings** free of charge to seasonal workers employed or engaged at the seasonal Work Premises; and
  - (b) ensure that all seasonal workers at the seasonal Work Premises wear a face covering at all times (other than to eat, drink and take medications), unless the nature of a seasonal worker's work means that it creates a risk to their health and safety or any of the other circumstances set out in section 7(2) of the **Workplace Directions (No. 9)** apply.
- (17) Where the employer or labour hire provider provides accommodation to a seasonal worker they must ensure that the arrangements in relation to **seasonal worker accommodation** are included in the attachment to their Seasonal Horticultural Worker COVIDSafe Plan in accordance with the requirements of subclause (18).
- (18) Where the employer or labour hire provider provides seasonal worker accommodation to a seasonal worker, they must specify in the attachment to their Seasonal Horticultural Worker COVIDSafe Plan the arrangements in relation to seasonal worker accommodation provided by the employer or labour hire provider, with respect to:
  - (a) density; and
  - (b) sanitation; and
  - (c) use of communal facilities; and
  - (d) regular cleaning; and
  - (e) the provision of alternative facilities where a resident is required to self-isolate as a confirmed case or close contact under the **Diagnosed Persons and Close Contacts Directions (No. 13)**,having regard to guidance produced by the Department of Jobs, Precincts and Regions and the Department of Health and Human Services.
- (19) Where the employer or labour hire provider provides **seasonal worker transport** (whether that transport is owned or leased) to a seasonal worker they must ensure that arrangements in relation to the seasonal worker transport are included in the attachment to their Seasonal Horticultural Worker COVIDSafe plan in accordance with the requirements of subclause (20).

- (20) Where the employer or labour hire provider provides seasonal worker transport to a seasonal worker, they must specify in the attachment to their Seasonal Horticultural Worker COVIDSafe Plan the arrangements in relation to seasonal worker transport provided by the employer or labour hire provider, with respect to:
- (a) distancing; and
  - (b) wearing of masks; and
  - (c) ventilation; and
  - (d) regular cleaning,
- having regard to guidance produced by the Department of Jobs, Precincts and Regions and the Department of Health and Human Services.

*Care facilities*

- (21) An employer in relation to a Work Premises that is a care facility in Victoria must require **care facility workers** in relation to the care facility to declare in writing at the start of each shift that the worker:
- (a) is free of SARS-CoV-2 Symptoms; and
  - (b) has, in the preceding 14 days, not been in contact with a confirmed case (except in the course of their duties while wearing appropriate personal protective equipment); and
  - (c) is not currently required to self-isolate or self-quarantine under the **Diagnosed Persons and Close Contacts Directions (No. 13)**.
- (22) An employer in relation to a Work Premises that is a care facility in Victoria must:
- (a) carry out surveillance testing for SARS-CoV-2 on its employees and contractors in relation to the care facility where directed by the Chief Health Officer or their delegate, and in accordance with the requirements of the Department of Health and Human Services; and
- Note: the Department of Health and Human Services may set different surveillance testing requirements for different care facilities (e.g. based on the type of facility, or location), depending on associated levels of risk.*
- (b) keep records of surveillance testing of employees and contractors for SARS-CoV-2.
- (23) Despite clause 5(1)(b) of the **Care Facilities Directions (No. 16)**, an employer in relation to a Work Premises that is a care facility in Victoria must not permit an employee or contractor to enter the care facility where:
- (a) the employee or contractor has, on or after 4 October 2020, worked at another care facility; and
  - (b) at the time the employee or contractor worked at that other care facility, a confirmed case was present at that other facility,
- unless:
- (c) at least 14 days have elapsed since the last time the employee or contractor worked at that other facility while a confirmed case was present; and
  - (d) within four days prior to the date that the employee or contractor is expected to work at the care facility, the employee or contractor has:
    - (i) undertaken a test for SARS-CoV-2; and
    - (ii) received confirmation that the results of that test were negative; and
    - (iii) not worked at another care facility since that test; and



- (e) the employee or contractor has provided evidence of the negative test result to the employer prior to commencing work at that care facility.

*Note: providing the employer with hardcopy or electronic notification confirming the negative test result from a testing provider is sufficient evidence.*

*Note: the effect of subclause (23) is that, in the event of an outbreak of SARS-CoV-2 at a care facility, an employee or contractor present during the outbreak must only work at that facility, and cannot be permitted to work at other care facility. Such employees or contractors must wait a minimum period of 14 days and test negative for SARS-CoV-2, before moving from that care facility to commence work at another care facility.*

- (24) An employer in relation to a Work Premises that is a care facility in Victoria must comply with cleaning and personal protective equipment requirements in accordance with the requirements of the Department of Health and Human Services.
- (25) The Chief Health Officer may grant an exemption in writing to the requirements of subclause (23).

*Note: an exemption may only be granted where it is necessary to ensure that residents are provided with a reasonable standard of care.*

#### 7A 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. 9)**, the **Workplace Directions (No. 9)** are 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) **care facility** has the same meaning as in the **Care Facilities Directions (No. 16)**;
- (5) **care facility worker** has the same meaning as “worker” in clause 6(1) of the **Care Facilities Directions (No. 16)**;
- (6) **cleaned** has the same meaning as in the **Workplace Directions (No. 9)**;
- (7) **confirmed case** means a worker diagnosed with SARS-CoV-2;
- (8) **COVID Marshal** has the meaning in clause 7(4)(b);
- (9) **Direction and Detention Notice** means a notice given to a person requiring the person to be detained for a specified period;
- (10) **Directions currently in force** has the same meaning as in the **Stay Safe Directions (Victoria)**;
- (11) **employee** includes a person who is self-employed;
- (12) **employer** means a person who owns, operates or controls a **Work Premises** and includes a person who is self-employed or a sole-trader;
- (13) **face covering** has the same meaning as in the **Workplace Directions (No. 9)**;
- (14) **High Risk COVIDSafe Plan** has the meaning in clause 6(2);
- (15) **inspector** has the same meaning as in the **OHS Act**;
- (16) **labour hire provider** means a person who arranges, engages, supplies, subcontracts or otherwise provides **seasonal workers** (as employees, independent contractors or otherwise) for **seasonal horticultural work** (and includes a person who is self-employed or a sole trader);

- (17) **manufacturing facility** means a facility mainly engaged in the physical or chemical transformation of materials, substances or components into new products (excluding agriculture and construction);
- (18) **meat processing facility** has the meaning under the PrimeSafe licence category “further meat processing facilities”;
- (19) **Metropolitan Melbourne** means the area within the municipal districts under the local government of the municipal councils set out in Schedule 2 of the **Planning and Environment Act 1987**;
- (20) **OHS Act** means the **Occupational Health and Safety Act 2004**;
- (21) **outbreak** means:
- (a) a single **confirmed case** of SARS-CoV-2 in a resident, staff member or frequent attendee of a residential 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.*
- (22) **perishable food Work Premises** has the meaning in clause 7(6)(b);
- (23) **personal protective equipment** has the same meaning as in the **Occupational Health and Safety Regulations 2017**;
- (24) **PHW Act** means the **Public Health and Wellbeing Act 2008**;
- (25) **poultry processing facility** has the meaning under the PrimeSafe licence category “poultry meat processing facilities”;
- (26) **premises** has the same meaning as in the **PHW Act**;
- (27) **reasonably practicable** is to have its ordinary and common sense meaning;
- (28) **records requirement** has the same meaning as in the **Workplace Directions (No. 9)**;
- (29) **SARS-CoV-2 Symptoms** has the same meaning as in the **Workplace Directions (No. 9)**;
- (30) **seafood processing facility** has the meaning under the PrimeSafe licence category “seafood processing facilities”;
- (31) **self-isolate** has the same meaning as in the **Diagnosed Persons and Close Contacts Directions (No. 13)**;
- (32) **self-quarantine** has the same meaning as in the **Diagnosed Persons and Close Contacts Directions (No. 13)**;
- (33) **seasonal horticultural work** means work that is seasonal in nature in the horticulture (ie production of fruit and vegetables) sector of the agriculture industry, including the picking, packing and harvesting of seasonal produce, but does not include:
- (a) the production of nuts, wine grapes and olives; or
  - (b) storage and distribution activities that occur post production;
- (34) **Seasonal Horticultural Worker COVIDSafe Plan** has the meaning in clause 6(1);
- (35) **seasonal Work Premises** means a farm or workplace where **seasonal horticultural work** is undertaken;
- (36) **seasonal worker** means a worker temporarily employed or engaged to perform **seasonal horticultural work** at **seasonal Work Premises**;

- (37) **seasonal worker accommodation** means any on-farm or off-farm accommodation provided for **seasonal workers** on a temporary basis by the employer or labour hire provider where the number of seasonal workers is greater than two and the accommodation is not the seasonal worker's usual place of residence;
- (38) **seasonal worker transport** means any transport provided by the employer or labour hire provider used for transporting **seasonal workers**;
- (39) **supermarket** has the same meaning as "supermarket business" in the **Food Act 1984**, and includes supermarket distribution and warehousing (including in relation to liquor products) but excludes retail facilities;
- (40) **supermarket Work Premises** has the meaning in clause 7(6)(a);
- (41) **vehicle** has the same meaning as in the **PHW Act**;
- (42) **wholesale facility** means a facility used for selling and distributing bulk quantities of goods, including related functions such as storage, sorting, packing and bulk distribution;
- (43) **Work Premises** means the **premises** of an **employer** in which work is undertaken, including any **vehicle** whilst being used for work purposes, and including a **seasonal Work Premises**;
- Note: a Work Premises does not include an employee's ordinary place of residence.*
- (44) **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 –
- give information that is false or misleading in a material particular; or
  - make a statement that is false or misleading in a material particular; or
  - 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 \$9,913 and 300 penalty units equals \$49,566.*

- (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 and 600 penalty units equals \$99,132.*

- (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) 10 penalty units (\$1,652) in the case of a natural person; or
  - (b) 60 penalty units (\$9,913) in the case of a body corporate.
- (3) 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 15 November 2020

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

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