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Public Health and Wellbeing Act 2008

Section 200

DIRECTIONS FROM CHIEF HEALTH OFFICER IN ACCORDANCE WITH EMERGENCY POWERS ARISING FROM DECLARED STATE OF EMERGENCY

Stay Safe Directions (Victoria) (No. 3)

I, Adjunct Clinical Professor Brett Sutton, Chief Health Officer, 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)(b) and (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 the State of Victoria by severe acute respiratory syndrome coronavirus 2 (**SARS-CoV-2**).
- (2) These directions require everyone who ordinarily resides in the State of Victoria to:
 - (a) wear **face coverings**; and
 - (b) limit interactions with others by restricting gatherings.
- (3) These directions must be read together with the **Directions currently in force**.
- (4) These directions replace the **Stay Safe Directions (Victoria) (No. 2)** to facilitate the return to onsite work.

2 Citation

These directions may be referred to as the **Stay Safe Directions (Victoria) (No. 3)**.

3 Revocation

The **Stay Safe Directions (Victoria) (No. 2)** are revoked at 11:59:00 pm on 29 November 2020.

4 Stay safe period

For the purposes of these directions, the **stay safe period** is the period beginning at 11:59:00 pm on 29 November 2020 and ending at 11:59:00 pm on 6 December 2020.

PART 2 – STAY SAFE

5 Direction – staying safe while leaving the home

Leaving the home

- (1) A person who ordinarily resides in the State of Victoria during the stay safe period may leave the **premises** where the person ordinarily resides for any reason subject to subclause (2).
- (2) When leaving their premises, a person:
 - (a) must comply with the face covering requirements in subclauses (7) and (8); and
 - (b) if leaving the premises where they ordinarily reside for work, must do so in accordance with clause 6 (**work**); and
 - (c) must comply with the restrictions on gatherings in clause 7 (**gatherings**); and
 - (d) must comply with the Directions currently in force, including (without limitation) by:
 - (i) not engaging in an activity that is prohibited under the **Restricted Activity Directions (Victoria) (No. 2)**; and

SPECIAL

- (ii) only engaging in an activity permitted under the **Restricted Activity Directions (Victoria) (No. 2)** in accordance with any requirements set out in those directions.

Note 1: a person should take reasonable steps to maintain a distance of 1.5 metres from all other persons (except those people with whom they ordinarily reside) when leaving their premises, and should practise hand hygiene in accordance with the Department of Health and Human Services' guidelines as updated from time to time, available at: www.dhhs.vic.gov.au/staying-safe-covid-19.

*Note 2: if a person experiences a temperature higher than 37.5°C or symptoms of respiratory infection, they are strongly encouraged to get a test for SARS-CoV-2 and remain at their ordinary place of residence until they obtain their test result. If they are diagnosed with SARS-CoV-2, they must self-isolate in accordance with the **Diagnosed Persons and Close Contacts Directions (No. 13)**.*

Ordinary place of residence

- (3) Subject to subclause (4), subclause (1) does not apply to a person at any time during the stay safe period when the person:
- no longer has an ordinary place of residence in the State of Victoria; or
 - has an ordinary place of residence in the State of Victoria, but that place is temporarily unavailable or is unavailable because of a risk of harm (including harm relating to family violence or violence of another person at the premises).
- (4) If a suitable premises is made available for a person identified in subclause (3) to reside at for the stay safe period (or part thereof), that premises is taken to be the person's ordinary place of residence for the stay safe period (or part thereof).
- (5) If a person's ordinary place of residence is outside the State of Victoria, the premises where that person is temporarily residing in the State of Victoria during the stay safe period (or part thereof) is taken to be the person's ordinary place of residence for the period (or part thereof).

Note: a person who is visiting and staying in Victoria, whether from overseas or interstate, is taken to be temporarily residing in Victoria. Where that person is staying in Victoria, these directions apply to them.

- (6) If, during the stay safe period, a person moves from the premises at which they ordinarily reside to a new premises, the new premises is taken to be the premises at which the person ordinarily resides from midnight on the day that the person moves.

Face covering requirements

- (7) A person may only leave the premises under subclause (1) if they:
- carry a face covering at all times, except where subclause (8)(a), (c), (d) or (e) applies; and
 - wear a face covering while in:
 - an **indoor space**, other than in the premises where the person ordinarily resides, while visiting a person with whom they are in an intimate personal relationship in accordance with clause 7(2)(g) or while visiting another premises for a social gathering in accordance with clause 7(2)(h); and
 - an **outdoor space** at all times when they cannot maintain a distance of 1.5 metres from all other persons (except those people with whom they ordinarily reside or with whom they are in an intimate personal relationship),
except where subclause (8) applies; and
 - wear a face covering where required to do so in accordance with any other Directions currently in force.

Note: face shields on their own do not meet the face covering requirements. For further information, please refer to the Department of Health and Human Services' guidelines as updated from time to time, available at: www.dhhs.vic.gov.au/face-masks-vic-covid-19.

- (8) Subclause (7)(b) and (c) do not apply if:
- (a) the person is an infant or a child under the age of 12 years; or
 - (b) the person is a student while onsite at a primary **school** or outside school hours care; or
 - (c) the person is a **prisoner** in a **prison** (either in their cell or common areas), subject to any policies of that prison; or
 - (d) the person is detained in a **remand centre, youth residential centre or youth justice centre** (either in their room or common areas), subject to any policies of that centre; or
 - (e) the person has a physical or mental health illness or condition, or disability, which makes wearing a face covering unsuitable; or
Examples: persons who have obstructed breathing, a serious skin condition on their face, an intellectual disability, a mental health illness, or who have experienced trauma.
 - (f) the person is communicating with a person who is deaf or hard of hearing and visibility of the mouth is essential for communication; or
 - (g) the nature of a person's work or education means that wearing a face covering creates a risk to their health and safety; or
 - (h) the nature of a person's work or education means that clear enunciation or visibility of the mouth is essential; or
Examples: teaching, lecturing, broadcasting.
 - (i) the person 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.
 - (j) the person is one of two persons being married while in the process of being married; or
 - (k) the person is a professional sportsperson when training or competing; or
 - (l) the person is engaged in any strenuous physical exercise; or
Examples: jogging, running.
 - (m) the person is travelling in a **vehicle** by themselves or where each other person in the vehicle ordinarily resides at the same premises; or
 - (n) the person is riding a bicycle or motorcycle; or
 - (o) the person is consuming food, drink or medicine; or
 - (p) the person is smoking or vaping (including e-cigarettes) while stationary; or
 - (q) the person is undergoing dental or medical care or treatment to the extent that such care or treatment requires that no face covering be worn; or
 - (r) the person is receiving a service from a facility which is permitted to operate under, and is operating in accordance with, the **Restricted Activity Directions (Victoria) (No. 2)**, to the extent that it is not reasonably practicable to receive that service wearing a face covering; or
Example: when having your photo taken by a professional photographer.
 - (s) the person is asked to remove the face covering to ascertain identity; or
Examples: a person may be asked by police, security, bank or post office staff to remove a face covering to ascertain identity or when purchasing alcohol or cigarettes.
 - (t) for emergency purposes; or
 - (u) required or authorised by law; or
 - (v) doing so is not safe in all the circumstances.

PART 3 – WORK**6 Leaving premises to attend work**

A person who ordinarily resides in the State of Victoria may attend work (whether paid or voluntary, including for charitable or religious purposes) at a work premises if:

- (1) the person who has employed or engaged the person to work has advised that it is permissible for them to do so in accordance with the Directions currently in force; or
*Note: the **Workplace Directions (No. 11)** address how certain workplaces may facilitate the return of persons to onsite work.*
- (2) it is not reasonably practicable for the person to do so from those premises.

PART 4 – GATHERINGS**7 Restrictions on gatherings***Private gatherings*

- (1) During the stay safe period, a person who ordinarily resides in the State of Victoria must not permit another person to enter the premises at which they ordinarily reside (whether or not entering any building on the premises).
- (2) Subclause (1) does not operate to prevent any person entering the premises:
 - (a) if the other person also ordinarily resides at the premises; or
 - (b) if permitted under, and provided they comply with the requirements of, the Directions currently in force; or
 - (c) to attend or undertake work or education services; or

Note: this includes a person who provides professional respite care for carers of people with complex needs, where that professional is permitted to work in accordance with the Directions currently in force.

Examples: a tradesperson for the purpose of carrying out repairs; a person delivering personal services such as hairdressing in the home.

- (d) to provide childcare, child-minding, early childhood education, schooling or education services (whether paid or on a voluntary basis); or
- (e) if that person is a parent or guardian of a child who ordinarily resides at the premises, to visit that child; or
- (f) to provide care and support to a relative or other person who ordinarily resides at the premises:
 - (i) who has particular needs because of age, infirmity, disability, illness or a chronic health condition; or
 - (ii) because of matters relating to the relative or other person's health (including mental health or pregnancy); or
- (g) to visit someone who ordinarily resides at those premises and with whom they are in an intimate personal relationship; or
Note: people in an intimate personal relationship may stay overnight at each other's ordinary places of residence, and are not required to wear a face covering while visiting each other at those premises, provided they otherwise comply with these directions.
- (h) if the person is visiting for a social gathering (**visiting person**), provided that there is no one else at the premises except for:
 - (i) the person (or people) who ordinarily reside at those premises and any other person with whom those people are in an intimate personal relationship; and
 - (ii) no more than 14 other persons who are visiting for a social gathering; and
 - (iii) any infant under one year of age of a visiting person; and

- (iv) provided that the premises does not have more than 15 visiting persons for a social gathering each day; or

Note: under subclause (2)(h), up to 15 people may visit for a social gathering each day, with any infant under one year of age not counting towards this limit. The 15 people do not need to be from the same household and do not have to visit at the same time.

- (i) to attend an inspection of real estate for the purposes of a prospective sale or rental of the property, organised in accordance with any requirements in the **Restricted Activity Directions (Victoria) (No. 2)**; or
- (j) for the purpose of moving to the premises as the place where they will ordinarily reside; or
- (k) to escape harm or the risk of harm, including harm relating to family violence or violence of another person; or
- (l) for medical or emergency purposes; or
- (m) for purposes relating to the administration of justice; or
- (n) as required or authorised by law; or
- (o) for the purposes of **national security**.

Note: subclause (1) does not apply to a care facility. Any regulation of access and visits to care facilities are contained in the Care Facilities Directions (No. 17).

Public gatherings

- (3) During the stay safe period, a person in the State of Victoria must not arrange to meet, or organise or intentionally attend a gathering of, more than 49 other persons (with any infant under one year of age not counting towards this limit) for a common purpose at a public place, except:

Note 1: under subclause (3), the limit on the number of people who may meet at any one time in a public place is 50.

Note 2: two or more groups of 50 people cannot meet for a common purpose at a public place. In addition, a group in a public place must take reasonable steps to maintain a safe distance from any other groups in that public place.

Note 3: subclause (3) does not prevent a person attending a public place (for example, a shopping centre) for a purpose (for example, shopping), where other people are also likely to be attending that public place for a similar purpose. It prevents people from attending a public place intending to gather with other people for a common purpose (for example, meeting family or friends at the shopping centre).

- (a) for the purpose of a religious gathering (including ceremonies) with no more than:
 - (i) 149 other **members of the public** if held in an indoor space; or
 - (ii) 299 other members of the public if held in an outdoor space, plus any faith leaders (and any others necessary to facilitate the ceremony), provided they comply with any requirements of the **Restricted Activity Directions (Victoria) (No. 2)**; or
- (b) for the purpose of attending a wedding in the State of Victoria that complies with the requirements in subclause (4); or
- (c) for the purpose of attending a funeral in the State of Victoria that complies with the requirements in subclause (5); or
- (d) it is necessary to arrange a meeting or organise or attend a gathering for one or more of the following purposes:
 - (i) engaging in an activity permitted under, and provided they comply with any requirements of, the **Restricted Activity Directions (Victoria) (No. 2)**; or
 - (ii) to attend or undertake work in accordance with clause 6; or

- (iii) medical or emergency purposes; or
- (iv) purposes as required or authorised by law; or
- (v) purposes relating to the administration of justice.

Note: a person may leave the premises at which they ordinarily reside using transport (public or private) regardless of how many people are on the tram, train, or bus or in the vehicle.

Weddings and funerals

- (4) The requirements for a wedding held in the State of Victoria are that:
- (a) it involves no more than 150 members of the public, including the two persons being married and the two persons witnessing the marriage for the purposes of section 44 of the **Marriage Act 1961** of the Commonwealth, with any infant under one year of age not counting towards this limit; and
 - (b) in any case (other than at a person's ordinary place of residence), the total number of members of the public present at the same time in the space must not exceed the **density quotient**; and
 - (c) if held at a person's ordinary place of residence, it must comply with the gathering restrictions in subclauses (1) and (2)(a), (c), (g) and (h).

*Note: record-keeping requirements apply to weddings as set out in the **Workplace Directions (No. 11)**.*

- (5) The requirements for a funeral held in the State of Victoria are that:
- (a) it involves no more than 150 members of the public, with any infant under one year of age not counting towards this limit; and
 - (b) in any case (other than at a person's ordinary place of residence), the total number of members of the public present at the same time in the space must not exceed the density quotient; and
 - (c) if held at a person's ordinary place of residence, it must comply with the gathering restrictions in subclauses (1) and (2)(a), (c), (g) and (h).

*Note: record-keeping requirements apply to funerals as set out in the **Workplace Directions (No. 11)**.*

PART 5 – OTHER PROVISIONS

8 Relationship with other Directions

- (1) If there is any inconsistency between Parts 2, 3 and 4 of these directions and the **Diagnosed Persons and Close Contacts Directions (No. 13)**, Parts 2, 3 and 4 of these directions are inoperative to the extent of any 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.
- (3) If there is any inconsistency between these directions and a direction or other requirement contained in the **Care Facilities Directions (No. 17)**, these directions are inoperative to the extent of the inconsistency.
- (4) Unless the context otherwise requires, a reference in any Directions currently in force, in any Direction and Detention Notice, or in any approved form under a Direction currently in force or a Direction and Detention Notice to:
 - (a) a Direction currently in force or these directions, or a defined term in a Direction currently in force or these directions, will be taken to mean that direction (and hence that defined term) as amended or replaced from time to time; or
 - (b) an earlier version of a particular Direction currently in force or these directions will be taken to be a reference to the current version of that particular direction.

9 Definitions

For the purposes of these directions:

- (1) **care facility** has the same meaning as in the **Care Facilities Directions (No. 17)**;
- (2) **density quotient** has the same meaning as in the **Workplace Directions (No. 11)**;
- (3) **Direction and Detention Notice** means a notice given to a person requiring the person to be detained for a specified period;
- (4) **Directions currently in force** means the **Restricted Activity Directions (Victoria) (No. 2)**, the **Stay Safe Directions (Victoria) (No. 3)**, the **Diagnosed Persons and Close Contacts Directions (No. 13)**, the **Hospital Visitor Directions (No. 15)**, the **Care Facilities Directions (No. 17)**, the **Workplace Directions (No. 11)**, the **Workplace (Additional Industry Obligations) Directions (No. 13)**, and the **Border Crossing Permit Scheme Directions**, each as amended or replaced from time to time;
- (5) **face covering** means a fitted face mask that covers the nose and mouth to provide the wearer protection against infection (but does not include a face shield);
- (6) **indoor space** means an area, room or **premises** that is or are substantially enclosed by a roof and walls that are permanent structures rising either from floor to ceiling or are at least 2.1 metres high, regardless of whether the roof or walls or any part of them are open or closed;
- (7) **member of the public** means a person but does not include:
 - (a) a person who is an employee of an operator of the facility or venue; or
 - (b) any other person who attends the facility or venue that is reasonably necessary for providing a service at the facility or venue;
- (8) **national security** has the meaning that security has in the **Australian Security Intelligence Organisation Act 1979** of the Commonwealth;
- (9) **outdoor space** means a space that is not an **indoor space**;
- (10) **photographer** means a person who takes photographs as a business and has an Australian Business Number for this purpose;
- (11) **premises** means:
 - (a) a building, or part of a building; and
 - (b) any land on which the building is located, other than land that is available for communal use;
- (12) **prison** has the same meaning as in the **Corrections Act 1986**;
- (13) **prisoner** has the same meaning as in the **Corrections Act 1986**;
- (14) **remand centre** has the same meaning as in the **Children, Youth and Families Act 2005**;
- (15) **school** means a registered school as defined in the **Education and Training Reform Act 2006**;
- (16) **stay safe period** has the meaning in clause 4;
- (17) **vehicle** has the same meaning as in the PHW Act;
- (18) **visiting person** has the meaning in clause 7(2)(h);
- (19) **youth justice centre** has the same meaning as in the **Children, Youth and Families Act 2005**;
- (20) **youth residential centre** has the same meaning as in the **Children, Youth and Families Act 2005**.

10 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 29 November 2020

ADJUNCT CLINICAL PROFESSOR BRETT SUTTON
Chief Health Officer,
as authorised to exercise emergency powers
under sections 20A and 199(2)(a) of the PHW Act.

Public Health and Wellbeing Act 2008

Section 200

DIRECTIONS FROM CHIEF HEALTH OFFICER IN ACCORDANCE WITH
EMERGENCY POWERS ARISING FROM DECLARED STATE OF EMERGENCY

Workplace Directions (No. 11)

I, Adjunct Clinical Professor Brett Sutton, Chief Health Officer, 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 limit the number of Victorians attending Work Premises to assist in reducing the frequency and scale of **outbreaks** of SARS-CoV-2 in Victorian workplaces and to establish more specific obligations on **employers** and **workers** 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 obligation an employer may have under the **OHS Act** and are not intended to derogate from any such obligations.
- (5) These directions replace the **Workplace Directions (No. 10)** and facilitate the return to onsite office-based work.

2 Citation

These directions may be referred to as the **Workplace Directions (No. 11)**.

3 Revocation

The **Workplace Directions (No. 10)** are revoked at 11:59:00 pm on 29 November 2020.

4 Commencement

These directions commence at 11:59:00 pm on 29 November 2020 and end at 11:59:00 pm on 6 December 2020.

5 Operation of a Work Premises

- (1) An employer:
 - (a) may permit workers to work from the employer's Work Premises, to the extent the Work Premises is permitted to operate under the **Restricted Activities Directions (Victoria) (No. 2)**;
 - (b) must allow a worker to perform work at the worker's place of residence or another suitable **premises** which is not the Work Premises, where it is not **reasonably practicable** for the worker to work from the Work Premises; and
 - (c) in relation to office-based Work Premises:
 - (i) must permit workers to attend the Work Premises where it is not reasonably practicable for the worker to work at the worker's place of residence or another suitable premises which is not the Work Premises;
 - (ii) must not require workers to work at the Work Premises if 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; and
 - (iii) may permit workers to attend the Work Premises in accordance with the requirements of the COVIDSafe Plan for that Work Premises.

Note: if a worker was already permitted to work at a Work Premises as at 11:58:59 pm on 29 November 2020, subclause 5(1) is not intended to operate in a way that would prevent that worker from working at a Work Premises from 11:59:00 pm on 29 November 2020.

- (2) An employer must comply with the **Workplace (Additional Industry Obligations) Directions (No. 13)** 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 6 to 8.
- (4) 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 (excluding where a worker is awaiting results of a test taken in accordance with a surveillance testing obligation under the **Workplace (Additional Industry Obligations) Directions (No. 13)**).

6 Preventative measures at Work Premises to reduce the risk of SARS-CoV-2

Face coverings requirement

- (1) An employer must take reasonable steps to ensure the worker, when working at a Work Premises:
 - (a) carries a **face covering** at all times, except where subclause (2)(a) applies; and
 - (b) wears a face covering:
 - (i) while in an **indoor space** at the Work Premises at all times except where subclause (2) applies;
 - (ii) while in an **outdoor space** at all times when they cannot maintain a distance of 1.5 metres from all other persons; and
 - (iii) where required to do so in accordance with any other Directions currently in force.

*Note: face shields on their own do not meet the face covering requirements. Please refer to the **Department's** guidelines for further information.*

- (2) Subclause (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 a professional sports person when training or competing; or
 - (g) 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
 - (h) the worker is consuming food, drink or medicine; or
 - (i) the worker is asked to remove the face covering to ascertain identity; or
Example: a worker may be asked by police, security or post office staff to remove a face covering to ascertain identity.
 - (j) for emergency purposes; or
 - (k) required or authorised by law; or

- (l) 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 Work Premises, or other facilities such as toilets.

COVIDSafe Plan

- (3) Subject to subclause (5), an employer must, for each Work Premises:
- (a) have in place a COVIDSafe Plan, which addresses the health and safety issues arising from SARS-CoV-2, including but not limited to:
- Note: employers can use the template plan accessible from the following website for guidance: www.business.vic.gov.au/disputes-disasters-and-succession-planning/covid-safe-business/creating-a-covid-safe-workplace#yourcovidsafeplan.*
- (i) the employer's process for implementing the record-keeping obligation under subclause (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 SARS-CoV-2 at the Work Premises;
- Examples: temperature testing, provision and training for PPE use, regular cleaning, specific cleaning requirements following an outbreak, physical distancing requirements (e.g. closing or reconfiguring common areas such as lunchrooms to support workers remaining 1.5 metres apart at all times).*
- (iv) the processes which the employer has put in place to respond to any **suspected case** or any **confirmed case** of SARS-CoV-2 at the Work Premises, taking into account the employer's obligations under these directions;
- (v) in relation to office-based Work Premises, the processes the employer has put in place to demonstrate best endeavours to ensure that:
- (A) where fewer than 40 workers ordinarily work at the Work Premises at any one time, no more than 10 workers (excluding workers working at the Work Premises in accordance with subclause 5(1)(c)(i)) work at the Work Premises at any one time; or
- (B) where 40 or more workers ordinarily work at the Work Premises at any one time, no more than 25% of the workers (excluding workers working at the Work Premises in accordance with subclause 5(1)(c)(i)) work at the Work Premises at any one time;
- Note: the employer must follow any guidance on office-based work issued by the Department of Jobs, Precincts and Regions.*
- (vi) an acknowledgement that the employer understands its responsibilities and obligations under these directions; and
- (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 subclause (3):
- (a) for any Work Premises that have no workers working at that Work Premises;
- (b) in relation to:
- (i) each individual vehicle that makes up a fleet of two or more vehicles providing **commercial passenger vehicle services** or **passenger services** as the case may be;

Note 1: despite subclause (5)(b), an employer must have a COVIDSafe Plan in relation to a fleet of two or more vehicles that provides commercial passenger vehicle services or passenger services.

Note 2: where an employer owns, operates or controls only one commercial passenger vehicle or a vehicle used to provide passengers services, then it must have a COVIDSafe Plan for that vehicle.

- (ii) vehicles used predominantly by an **employee** to travel between the Work Premises and the employee's ordinary place of residence.

Note: vehicles used predominantly as a Work Premises (e.g. food trucks, dental vans) require a COVIDSafe Plan.

- (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 SARS-CoV-2 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 subclause (6)(a).

Record-keeping obligations (records requirement)

- (7) Subject to subclause (9), an employer must keep a record of all workers and all visitors who attend the Work Premises for longer than 15 minutes (at a minimum), which includes:

- (a) the person's 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 in respect of all persons that attend the facility or venue for longer than 15 minutes, which may include staff, customers, and maintenance and delivery workers.

- (8) An employer may comply with the record-keeping requirements in subclause (7) in relation to a worker or visitor where the worker or visitor records their visit to the Work Premises using a digital system provided by the **Service Victoria CEO** and other parts of the Victorian Government for that purpose.
- (9) An employer is not required to comply with the records requirement in subclause (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 **members of the public** using a **commercial passenger vehicle service**;
 - (c) in relation to essential support groups and health services if confidentiality is typically required.

Example: support groups for alcohol and drugs or family violence typically require confidentiality.

- (10) In handling the information outlined in subclause (7):
 - (a) an employer who uses a system other than a digital system provided by the **Service Victoria CEO** and other parts of the Victorian Government must:
 - (i) not collect personal information unless the information is necessary to meet the requirements outlined in subclause (7);
 - (ii) use reasonable endeavours to protect the personal information from use or disclosure, other than in accordance with a request made by an Authorised Officer (or a person assisting an Authorised Officer); and

Note: information should be collected in a way that protects it from being disclosed to other patrons.

Example: where using a paper-based method, a sheet of paper could be placed over previous visitor details on a sheet that records the names.

- (iii) use reasonable endeavours to notify the person from whom the personal information is being collected that the primary purpose of collection is for SARS-CoV-2 contact tracing, and that their personal information may be collected and stored by the Victorian Government for this purpose; and
- (iv) destroy the information as soon as reasonably practicable following 28 days after the attendance at the Work Premises, unless a statutory requirement permits or requires the personal information to be retained;

Note: Clause 10(a) is intended to apply to employers who use a third party digital system, or other system (e.g. paper based record keeping), to create a worker or visitor record, whether or not:

- (a) *the employer also uses a digital system provided by the Service Victoria CEO and other parts of the Victorian Government to comply with subclause (7);*
 - (b) *the third party digital system, or other system used by the employer; links to a digital system provided by the Service Victoria CEO and other parts of the Victorian Government.*
- (b) **Service Victoria** and/or another operator of a system provided by the Victorian Government, must destroy the information as soon as reasonably practicable following 28 days after the attendance at the Work Premises, unless a statutory requirement permits or requires the personal information to be retained.

Density quotient (Density quotient)

- (11) In any shared spaces (such as lunchrooms) and publicly accessible areas at the Work Premises (except in relation to any shared spaces in **schools**, non-school senior secondary providers, or **childcare or early childhood services** used by students or children, including classrooms), an employer must comply with the density quotient for each shared space and each publicly accessible area.

Note 1: in relation to a school, non-school senior secondary providers, education and care service, or childcare or early childhood service, spaces for the purpose of student and children use (such as classrooms, hallways and gymnasiums) are not subject to the density quotient. The density quotient does, however, still apply to spaces used only by staff (such as staff lunchrooms, photocopier room, principal's office, back of reception and resource rooms). The density quotient also applies to any publicly accessible areas (including in relation to a school, non-school senior secondary providers, or childcare or early childhood service), and any such publicly accessible areas that are subject to the signage requirements under subclause (13).

*Note 2: in relation to a school, non-school senior secondary providers, or childcare or early childhood service using facilities other than the school or childcare premises, the density quotient of the relevant facility and the relevant requirements of the facility's COVIDSafe Plan will apply to the school, non-school senior secondary providers, or childcare or early childhood service use of that facility. As an alternative to using the facility's COVIDSafe Plan, the school, non-school senior secondary providers, or childcare or early childhood service may apply their own COVIDSafe Plan to the use of the facility, so long as it has been adjusted so that it is fit for purpose taking into account the unique features of the relevant facility. If the facility is being used exclusively by a single school, non-school senior secondary providers, or childcare or early childhood service for educational purposes, the restrictions and guidance on teachers, staff, students and children under the **Restricted Activity Directions (Victoria) (No. 2)** apply in relation to the school, non-school senior secondary providers, or childcare or early childhood service having exclusive use of that facility.*

*Note 3: In relation to a **care facility**, shared spaces and publicly accessible spaces include entrance areas, waiting rooms and communal areas where visitors may enter but does not include patient or resident rooms or resident lounges not accessible by visitors.*

- (12) The **density quotient** for the purposes of subclause (11) 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):

- (c) by 2 in relation to an outdoor space of a **food and drink facility** or **food court**; or
- (d) by 4 in relation to any other shared space or publicly accessible area, except for those covered under clause 6(12)(c), and:
 - (i) for an indoor space, applies to each single undivided space permitted to operate under these directions; and
 - (ii) for an **indoor zone**, applies to each indoor zone within an indoor space permitted to operate under these directions; and
- (e) by 8 in relation to an indoor space of a food court; and
- (f) in relation to a publicly accessible space, for an outdoor space (other than in relation to a food and drink facility or food court), market or retail shopping centre, applies to the total space permitted to operate under these directions.

*Note: the number of people allowed in a shared space or publicly accessible area may be subject to any cap under the **Restricted Activity Directions (Victoria) (No. 2)** that is less than the number of people allowed under the density quotient.*

Example:

A: if an outdoor space in relation to a food and drink facility or food court is 8.5 metres long and 4.5 metres wide, its total area is 38.25 square metres. Given it is an outdoor space in relation to a food and drink facility or food court, then its density quotient is 19.125, so no more than 19 members of the public would be permitted to be in the outdoor space at the same time.

B: 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.

C: 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, so no more than 37 members of the public would be permitted to be in the indoor space at the same time.

Signage requirements (signage requirement)

- (13) 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.

- (14) 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)

- (15) 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 a function is to occur, a reasonable period of time has elapsed since the conclusion of any earlier function to allow for cleaning in between the functions; 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.
- (16) To ensure a surface is cleaned for the purposes of these directions, 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.
- (17) 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.

7 Responding to a suspected case of SARS-CoV-2 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 **SARS-CoV-2 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; and

Note: the worker should isolate in a separate room from other persons, where possible.

- (b) advise the worker to be tested for SARS-CoV-2 as soon as practicable, and to self-isolate whilst awaiting the result of that test; and
- (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 suspected case (including their personal workspace and any areas in the Work Premises frequently used by the suspected case);
 - (ii) cleaning high-touch surfaces at the Work Premises likely to have been frequented by the suspected case; and

Examples: lift buttons, door handles, washroom facilities, kitchen facilities, water coolers. For further information, see the guidance at 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 6(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 SARS-CoV-2 and advise all workers to be tested for SARS-CoV-2 and self-isolate if they become symptomatic.
- (3) If an employer becomes aware of three or more suspected cases in relation to workers 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 1: 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 SARS-CoV-2 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.

Note 2: in relation to a school, non-school senior secondary providers, or childcare or early childhood service, subclause (3) only applies in relation to suspected cases involving workers, not students or children.

8 Responding to a confirmed case of SARS-CoV-2 in a Work Premises

- (1) In these directions, in respect of a worker who has tested positive to SARS-CoV-2, **Relevant Period** means the period commencing 48 hours prior to:
- (a) the onset of symptoms of SARS-CoV-2 in the worker, if symptomatic; or
 - (b) the worker having been tested for SARS-CoV-2, if asymptomatic,
- and up to the **diagnosed person** receiving clearance from the Department.
- (2) A worker who has received a positive test result for SARS-CoV-2 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 and **WorkSafe** in accordance with the **Occupational Health and Safety (COVID-19 Incident Notification) Regulations 2020** and the health and safety representative at the Work Premises; and
 - (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 7(2)(a); and
 - (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; and
 - (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; and

Note: online guidance from the Department can be obtained from the following link: 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 6(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; and
- (f) notify all workers when a worker has tested positive to SARS-CoV-2; and
- (g) inform all workers (including health and safety representatives) to be vigilant about the onset of symptoms of SARS-CoV-2 and advise all workers to be tested for SARS-CoV-2 and self-quarantine if they become symptomatic; and
- (h) put in place appropriate control and/or risk management measures to reduce the risk of spreading SARS-CoV-2 at the Work Premises; and

Note: employers are encouraged to ensure that any risks identified from the confirmed case are addressed in these control measures.

Examples: 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 subclause (3)(a) to (h); and
 - (ii) provide it with a copy of the risk assessment conducted in accordance with subclause (3)(c); and
 - (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 subclause (3)(e); and
 - (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; and
- (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 subclause (3)(a) to (i); and
 - (ii) the Department has completed all relevant contact tracing; and the Department has given clearance for the Work Premises to re-open.

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

9 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.

10 Other definitions

For the purposes of these directions:

- (1) **Authorised Officer** has the same meaning as in the **PHW Act**;
- (2) **care facility** has the same meaning as in the **Care Facilities Directions (No. 17)**;
- (3) **childcare or early childhood service** means onsite early childhood education and care services or children's services provided under the:
 - (a) **Education and Care Services National Law** and the **Education and Care Services National Regulations**, including long day care services, kindergartens and/or preschool and family daycare services, but not including outside school hours care services; and

- (b) **Children Services Act 1996**, including limited hours services, budget based funded services, occasional care services, early childhood intervention services, mobile services and (if applicable) school holiday care programs;
- (4) **cleaned** has the meaning in clause 6(16);
- (5) **cleaning requirement** has the meaning in clause 6(15) to (17) (both inclusive);
- (6) **close contact** means any person who has had contact greater than 15 minutes face-to-face, cumulative, or has shared a closed space for more than two hours, with a **confirmed case** during the **Relevant Period**;
- (7) **commercial passenger vehicle services** has the meaning given in section 4 of the **Commercial Passenger Vehicle Industry Act 2017**;
- (8) **common areas** of a **retail shopping centre** has the same meaning as in the **Retail Leases Act 2003**;
- (9) **confirmed case** means a diagnosis of SARS-CoV-2 in a **worker** at the **Work Premises**;
- (10) **Department** means the Department of Health and Human Services;
- (11) **diagnosed person** has the same meaning as in the **Diagnosed Persons and Close Contacts Directions (No. 13)**;
- (12) **diagnosed worker** means a **worker** who is a **diagnosed person**;
- (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** has the same meaning as in the **Stay Safe Directions (Victoria) (No. 3)**;
- (15) **employee** includes a person who is self-employed;
- (16) **employer** means a person who owns, operates or controls **Work Premises** (or a Work Premises) and includes a person who is self-employed;
- (17) **face covering** means a fitted face mask that covers the nose and mouth to provide the wearer protection against infection;
- (18) **food and drink facility** has the same meaning as in the **Restricted Activity Directions (Victoria) (No. 2)**;
- (19) **food court** has the same meaning as in the **Restricted Activity Directions (Victoria) (No. 2)**;
- (20) **health and safety representative** has the same meaning as in the **OHS Act**;
- (21) **indoor space** has the same meaning as in the **Restricted Activity Directions (Victoria) (No. 2)**;
- (22) **indoor zone** means a section of an **indoor space** that:
 - (a) is designated by the person who owns, controls or operates the indoor space as being for the exclusive use of specified members of the public; and
 - (b) is delineated by temporary barriers, tape or other clearly visible markings or means;
- (23) **inspector** has the same meaning as in the **OHS Act**;
- (24) **market** means a public market, whether indoor or outdoor, including a food market;
- (25) **member of the public** is a person but does not include:
 - (a) a person who is an employee of an operator of the facility or venue; or
 - (b) any other person who attends the facility or venue that is reasonably necessary for providing a service at the facility or venue;

- (26) **OHS Act** means the **Occupational Health and Safety Act 2004**;
- (27) **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. 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.*
- (28) **outdoor space** has the same meaning as in the **Restricted Activity Directions (Victoria) (No. 2)**;
- (29) **passenger services** has the same meaning as in the **Transport Integration Act 2010**;
- (30) **PHW Act** means the **Public Health and Wellbeing Act 2008**;
- (31) **place of worship** has the same meaning as in the **Heritage Act 2017**;
- (32) **PPE** means personal protective equipment;
- (33) **premises** has the same meaning as in the **PHW Act**;
- (34) **reasonably practicable** is to have its ordinary and common sense meaning;
- (35) **records requirement** has the meaning in clause 6(7) to (10) (both inclusive);
- (36) **Relevant Period** has the meaning given in clause 8(1);
- (37) **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;
- (38) **retail shopping centre** has the same meaning as in the **Retail Leases Act 2003**;
- (39) **SARS-CoV-2 Symptoms** means symptoms consistent with SARS-CoV-2, including but not limited to the following:
- (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;
 - (d) loss of taste;
- (40) **school** means a registered school as defined in the **Education and Training Reform Act 2006**;
- (41) **self-isolate** has the same meaning as in the **Diagnosed Persons and Close Contacts Directions (No. 13)**;
- (42) **self-quarantine** has the same meaning as in the **Diagnosed Persons and Close Contacts Directions (No. 13)**;
- (43) **Service Victoria** has the same meaning as in the **Service Victoria Act 2018**;
- (44) **Service Victoria CEO** has the same meaning as in the **Service Victoria Act 2018**;
- (45) **signage requirement** has the meaning in clause 6(13) and (14);
- (46) **suspected case** means a person who is displaying one or more **SARS-CoV-2 Symptoms**;
- (47) **vehicle** has the same meaning as in the **PHW Act**;

- (48) **Work Premises** means the **premises** of an **employer** in which work is undertaken, including any **vehicle** whilst being used for work purposes, but excluding an employee's ordinary place of residence;

Note: this includes a community facility such as a community centre or community hall, or a public library, or a place of worship.

- (49) **worker** includes **employees**, subcontractors (and their employees), volunteers and any other person engaged or permitted by an employer to perform work;

- (50) **WorkSafe** means WorkSafe Victoria.

11 Penalties

- (1) 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 29 November 2020

ADJUNCT CLINICAL PROFESSOR BRETT SUTTON
Chief Health Officer,
as authorised to exercise emergency powers
under sections 20A and 199(2)(a) of the PHW Act.

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