



Victoria Government Gazette

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Public Health and Wellbeing Act 2008

Section 200

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

New South Wales Border Crossing Permit Scheme Directions (No. 5)

I, Dr Clare Looker, Deputy Chief Health Officer, consider it reasonably necessary to eliminate or reduce the serious 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**):

1 Preamble

(1) These directions replace the **New South Wales Border Crossing Permit Scheme Directions (No. 4)** and:

- (a) removes the ability for prohibited persons who have resided in, visited, been in, or travelled through a **green zone** in the 14 days prior to the date of entry, or attempted entry, into Victoria to apply for a border permit;
 - (b) clarify some requirements in the directions, including the conditions imposed on exemptions and the exemption and exception categories,
- in order to limit the spread of severe acute respiratory syndrome coronavirus 2 (**SARS-CoV-2**).

(2) These directions must be read together with the **Directions currently in force**.

2 Citation

These directions may be referred to as the **New South Wales Border Crossing Permit Scheme Directions (No. 5)**.

3 Commencement and revocation

- (1) The **New South Wales Border Crossing Permit Scheme Directions (No. 4)** are revoked at 11:59:00 pm on 1 January 2021.
- (2) These directions commence at 11:59:00 pm on 1 January 2021.

4 Restrictions on persons entering Victoria

Persons who have resided in, visited, been in or travelled through a hot zone or a red zone and/or are required to self-isolate or self-quarantine in New South Wales

- (1) Subject to subclauses (2) to (6), a prohibited person must not enter Victoria unless the Chief Health Officer or Deputy Chief Health Officer (or an Executive Director or Director in the public health branch of the Department in relation to an exemption request under subclause 6(3)(a)(ii)) has granted an exemption under clause 6.

Commercial freight services

- (2) A person providing commercial freight services may only enter Victoria if:
 - (a) the person is required to enter and be physically present in Victoria for the purpose of providing commercial freight services; and
 - (b) the person carries, and presents on request to an authorised officer, a Victoria Police member or a Protective Services Officer (or other person under such person's direction):
 - (i) a border permit for that person including:
 - (A) the person's full name; and

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- (B) the person's contact phone number; and
 - (C) the full names of any person under the age of 18, or other dependants for whom the person is a parent, guardian or carer, who are travelling with the person; and
 - (D) the address from which the person is departing when entering Victoria; and
 - (E) the address where the person ordinarily resides; and
 - (F) the date of entry into Victoria; and
 - (G) if applicable, any planned date of departure from Victoria; and
 - (H) an attestation by that person stating that (as at the date of attestation) the person (and any person under the age of 18 or other dependant travelling with the person):
 1. is not a diagnosed person or someone who has been in close contact with a diagnosed person; and
 2. is not experiencing SARS-CoV-2 Symptoms; and
 3. the information in the border permit and attestation is true and correct; and
 - (ii) photographic personal identification including the address at which the person ordinarily resides (unless the person is under the age of 18); and
 - (c) the person is regularly tested for SARS-CoV-2 in accordance with the national Freight Movement Code for the Domestic Border Controls – Freight Movement Protocol; and
 - (d) the person only remains in Victoria for the period reasonably necessary to provide commercial freight services and minimises contact with other persons; and
 - (e) the person self-quarantines at the premises at which they ordinarily reside or another premises that is suitable for the person to reside in for the purpose of self-quarantine when not providing commercial freight services and only leaves that premises:
 - (i) to obtain takeaway food and drink; or
 - (ii) to access toilet and bathroom facilities; or
 - (iii) to obtain medical care or supplies; or
 - (iv) to get tested for SARS CoV-2; or
 - (v) in an emergency situation; or
 - (vi) if required to do so by law; and
- Note: the person's place of accommodation or a truck cabin may be a premises suitable for the person to reside in for the purpose of self-quarantine.*
- (f) the person wears a **face covering** in all public places.

People transiting through New South Wales to Victoria from a State or Territory other than New South Wales

- (3) A person who resides in, or has visited, a State or Territory other than New South Wales, may only enter Victoria if:
 - (a) the person:
 - (i) has not been in New South Wales for the last 14 days (other than to transit to Victoria); and

- (ii) minimises contact with other persons in New South Wales when transiting from the other State or Territory to Victoria (except in the case of emergency); and
- (iii) keeps a record of each place they stopped in New South Wales when transiting through New South Wales to Victoria; and
- (iv) wears a face covering in all public places; and
- (b) the person carries, and presents on request to an authorised officer, a Victoria Police member or a Protective Services Officer (or other person under such person's direction):
 - (i) a border permit for that person including:
 - (A) the person's full name; and
 - (B) the person's contact phone number; and
 - (C) the full names of any person under the age of 18, or other dependants for whom the person is a parent, guardian or carer, who are travelling with the person; and
 - (D) the address from which the person is departing when entering Victoria; and
 - (E) the address where the person ordinarily resides; and
 - (F) the date of entry into Victoria; and
 - (G) if applicable, any planned date of departure from Victoria; and
 - (H) an attestation by that person stating that (as at the date of attestation) the person (and any person under the age of 18 or other dependant travelling with the person):
 - 1. has not been in New South Wales for the last 14 days (other than to transit to Victoria); and
 - 2. is not a diagnosed person or someone who has been in close contact with a diagnosed person; and
 - 3. is not experiencing SARS-CoV-2 Symptoms; and
 - 4. the information in the border permit and attestation is true and correct; and
 - (ii) photographic personal identification including the address at which the person ordinarily resides (unless the person is under the age of 18); and
- (c) the person only remains in Victoria for the period reasonably necessary the purpose they entered Victoria (unless Victoria is their normal place of residence) and minimises contact with other persons.

Cross Border Community Members

- (4) Despite subclause (1), a prohibited person may enter Victoria without a border permit if the person:
 - (a) is a Cross Border Community Member; and
 - (b) has not resided in, visited, been in, or travelled through, a hot zone or red zone and/or required to self-isolate or self-quarantine in the State of New South Wales since 11 December 2020 or in the 14 days prior to the date of entry, or attempted entry, into Victoria (whichever is later); and
 - (c) has not resided in, visited, been in, or travelled through, the Blue Mountains City Council local government area and / or Wollongong City Council local government area since 27 December 2020 or in the 14 days prior to the date of entry, or attempted entry, into Victoria (whichever is later); and

- (d) has not resided in, visited, been in, or travelled through an area outside the Cross Border Community area in New South Wales since 31 December 2020 or in the 14 days prior to the date of entry into Victoria (whichever is later);
- (e) carries, and presents on request to an authorised officer, a Victoria Police member or a Protective Services Officer (or other person under such person's direction):
 - (i) proof that they are a Cross Border Community Member (unless the person is under the age of 18); and

*Note: proof that a person is a Cross Border Community Member will include a driver's licence or other document issued by the State of New South Wales, Victoria or any **municipal district**, local government area or unincorporated local government area (not including Lord Howe Island) identified at www.coronavirus.vic.gov.au/victorian-border-crossing-permit, including the address where the person ordinarily resides, for example, a current rates notice.*
 - (ii) photographic personal identification including the address where the person ordinarily resides (unless the person is under the age of 18).

Other reasons for a prohibited person to enter Victoria without a border permit

- (5) Despite subclause (1), a person may leave Victoria to travel along the Murray River but only if the person:
 - (a) does not set foot on the banks of the Murray River on the New South Wales side of the Murray River; and
 - (b) prohibits or prevents any person who resides in, visits, has been in or travelled through New South Wales (except for persons from the Cross Border Community) from travelling on the Murray River with them or entering Victoria with them.

Other reasons for a prohibited person to enter Victoria without a border permit

- (6) Despite subclause (1), a prohibited person may enter Victoria without a border permit:
 - (a) to provide or receive emergency medical care; or
 - (b) to provide or receive emergency services or to ensure the provision of **essential services**, telecommunications or critical infrastructure and essential public services (including **emergency workers**, healthcare workers, care facility workers and child protection workers); or

Note: a prohibited person under subclause (6)(b) will be required to carry a letter from their employer evidencing the need for that worker to travel across the border.
 - (c) to escape harm or the risk of harm, including harm relating to family violence or violence of another person; or
 - (d) if they are a **school** student travelling on a bus; or
 - (e) where the prohibited person remains on the same premises where that premises is both in the State of New South Wales and Victoria;
 - (f) for purposes related to the administration of justice; or

Example: prison transfers.
 - (g) as required or authorised by law; or
 - (h) for the purposes of state security or **national security**; or
 - (i) for time critical agriculture harvesting purposes.

Note: a prohibited person is required to produce upon request a letter issued their employer as evidence of the need to enter Victoria for time critical agriculture harvesting purposes.
- (7) For the avoidance of doubt, whenever a prohibited person is in Victoria, they are subject to the Directions currently in force.

- (8) Where a prohibited person enters Victoria in accordance with subclauses (6)(a), (6)(b), (6)(c), (6)(f), (6)(g) or (6)(h), they must:
- (a) only remain in Victoria for period necessary for the purpose (unless Victoria is their normal place of residence);
 - (b) self-quarantine for 14 days if not performing the activity they were permitted entry for, except:
 - (i) where the prohibited person has not been in a part of New South Wales outside the Cross Border Community area;
 - (ii) in relation to subclause (6)(c) (escaping harm), only where it is reasonably practicable to do so in all the circumstances);
 - (c) must wear masks when in public (over and above Directions in force); and
 - (d) must be tested for SARS-CoV-2 within 48 hours of arrival in Victoria and provide documentary evidence that they have been tested to an authorised officer, a Victoria Police member or a Protective Services Officer (or other person under such person's direction) when requested to do so.

5 Applications for a border permit

- (1) A prohibited person may apply for a border permit using a digital system provided by the **Service Victoria CEO** and other parts of the Victorian Government.
- (2) An application for a border permit must contain all information reasonably required by the **Department** from time to time, for the purpose of protecting public health.
- (3) The Service Victoria CEO:
 - (a) may deliver a border permit to a prohibited person if clause 4(2) or (3) applies and the person makes an application under subclause (1) and the application complies with the requirements under subclause (2); and
 - (b) must provide a copy of the border permit to the Department; and
 - (c) will provide any information contained in an application to the Department on behalf of the prohibited person.
- (4) A border permit issued in accordance with clause 4(2) and (3) is only valid for 14 days from the date of entry into Victoria.
- (5) A person must not give information, or make a statement, in an application for a border permit that is false or misleading in a material particular.

6 Exemption power

- (1) A person is not required to comply with a requirement of these directions if the person is granted an exemption from that requirement under subclause (2).
- (2) The Chief Health Officer or Deputy Chief Health Officer (or an Executive Director or Director in the public health branch of the Department in relation to an exemption request under subclause 6(3)(a)(ii)) may exempt a person or a group of persons from any or all requirements contained in these directions, if satisfied that an exemption is appropriate, having regard to the:
 - (a) need to protect public health; and
 - (b) principles in sections 5 to 10 of the PHW Act, as appropriate.
- (3) In circumstances where a prohibited person is seeking an exemption, before granting any exemption the Chief Health Officer or Deputy Chief Health Officer must consider:
 - (a) if the prohibited person is:
 - (i) lawfully permitted to leave the State of New South Wales in accordance with the laws in force in that jurisdiction; and

- (ii) seeking to enter Victoria for the purposes of:
 - (A) attending a funeral or end of life event; or
 - (B) if a prohibited person owns or has responsibilities in relation to an animal, to meet obligations to sustain the life and wellbeing of that animal;
 - (C) returning to the person's ordinary place of residence for health, wellbeing, care or compassionate reasons; or
 - (D) an emergency relocation; or
 - (E) military transfers; and
 - (b) documentary evidence provided by the prohibited person of:
 - (i) the circumstances described in paragraph (a); or
 - (ii) test results or other medical information in relation to that person, including a negative SARS-CoV-2 test result from within the preceding 72 hours of entering Victoria; or

Note: a Victorian returning to their ordinary place of residence may not need to be tested SARS-CoV-2 in New South Wales before entering Victoria but must be tested for SARS-CoV-2 within 48 hours of returning to Victoria.
 - (iii) directions or permissions given to that person from the State of New South Wales not to self-isolate or self-quarantine, and any further documentary evidence requested by the Chief Health Officer or Deputy Chief Health Officer and provided by the prohibited person.
- (4) An exemption under subclause (2):
 - (a) must:
 - (i) be given, in writing, to the person who is the subject of the exemption; and
 - (ii) specify the requirement or requirements that the person need not comply with; and
 - (b) may subject to additional or different conditions approved by the Chief Health Officer or Deputy Chief Health Officer.
- (5) An exemption granted to a person under this clause does not prevent an authorised officer from exercising an **emergency power** to give the person a different direction or impose a different requirement on the person.
- (6) A person granted an exemption under subclause (2) must:
 - (a) only enter Victoria at a point of entry designated in the exemption;
 - (b) carry, and present on request to an authorised officer, a Victoria Police member or a Protective Services Officer (or other person under such person's direction):
 - (i) the exemption;
 - (ii) the person's photographic personal identification including the address at which the person ordinarily resides (unless the person is under the age of 18)); and
 - (iii) where the person's ordinary place is not in Victoria, evidence that they have been tested for SARS-CoV-2 in accordance with subclause 6(6)(h); and

Note: a Victorian returning to their ordinary place of residence may not need to be tested SARS-CoV-2 in New South Wales before entering Victoria but must be tested for SARS-CoV-2 when they return to Victoria.

- (c) undertake their proposed travel on the date set out in the exemption or within three days starting at midnight from the date of the person's proposed travel
Note: an exemption will expire if travel is not completed in accordance with subclause (6)(b) and the must re-apply for a new exemption if they cannot travel within three days of their proposed travel date.
- (d) travel directly:
- (i) to the airport in New South Wales and remain at the airport until the person's flight; and
 - (ii) to the premises at which the person ordinarily resides or another premises that is suitable for the person to reside in for the purpose of self-quarantine in accordance with subclause (6)(e); and
 - (iii) if the person is travelling by car, through a specified location to cross the border between Victoria and New South Wales;
- (e) self-quarantine at the premises at which the person ordinarily resides or another premises that is suitable for the person to reside in for the purpose of self-quarantine for 14 days, and only leaves that premises:
- (i) to return to New South Wales;
 - (ii) to attend a specified event or place subject to any additional requirements in the exemption in relation to:
 - (A) the duration of time the person may spend at the event or place
 - (B) whether other people who do not ordinarily reside at a private premises can be present when the person visits;
 - (C) if the person is permitted to attend a worksite, record keeping requirements of any worksite the person attends.
 - (iii) to obtain medical care or supplies; or
 - (iv) to get tested for SARS CoV-2; or
 - (v) in an emergency situation; or
 - (vi) if required to do so by law; and;
- (f) must wear masks when in public (over and above Directions in force); and
- (g) practise physical distancing of 1.5 metres from any other person except those people the person ordinarily resides with or where it is not reasonably practicable;
- (h) be tested for SARS-CoV-2 within 48 hours of arrival in Victoria; and
- (i) advise the Department immediately if they experience any SARS-CoV-2 Symptoms.
- (7) Any exemption granted under **New South Wales Border Crossing Permit Scheme Directions** or **New South Wales Border Crossing Permit Scheme Directions (No. 2)** or **New South Wales Border Crossing Permit Scheme Directions (No. 3)** or **New South Wales Border Crossing Permit Scheme Directions (No. 4)** continues to have effect.

7 Definitions

In these directions:

- (1) **authorised officer** has the same meaning as in the PHW Act;
- (2) **border permit** means the written notice (digital or otherwise) provided under clause 5;
- (3) **cleared from self-isolation** has the meaning in the **Diagnosed Persons and Close Contacts Directions**;

- (4) **COVIDSafe Plan** means a COVIDSafe Plan described in clause 6(3) of the **Workplace Directions (No. 14)**;
- (5) **Cross Border Community Member** means a person ordinarily residing in a **municipal district**, local government area or unincorporated local government area (not including Lord Howe Island) adjacent to or in close proximity to the border between the State of New South Wales and Victoria as detailed on the Department's website available at: www.coronavirus.vic.gov.au/victorian-border-crossing-permit;
- (6) **Department** means the Victorian Department of Health and Human Services;
- (7) **diagnosed person** means a person who at any time between midnight on 11 December 2020 and 11:59:00 pm on 3 January 2021 has been informed that they have been diagnosed with SARS-CoV-2 (but does not include a person who has been medically assessed as non-infectious and cleared by a medical practitioner and/or **cleared from self-isolation**);
- (8) **Diagnosed Persons and Close Contacts Directions** means the **Diagnosed Persons and Close Contacts Directions (No. 14)** as amended from time to time;
- (9) **Directions currently in force** has the same meaning as in the **Stay Safe Directions (Victoria)**;
- (10) **emergency powers** has the same meaning as in the PHW Act;
- (11) **emergency worker** has the same meaning as in the **Sentencing Act 1991**;
- (12) **essential services** has the same meaning as in the **Essential Services Act 1958**;
- (13) **face covering** has the meaning in the **Stay Safe Directions (Victoria)**;
- (14) **green zone** means any part of the State of New South Wales other than the **hot zone** or **red zone**;
- (15) **hot zone** means any location that people have resided in, visited, been in or travelled through that has been assessed as very high risk for SARS-CoV-2 transmission in the State of New South Wales, as detailed on the Department's website available at www.coronavirus.vic.gov.au/victorian-border-crossing-permit, as amended from time to time by the Victorian Government;
- (16) **municipal district** has the same meaning as in the **Local Government Act 1989**;
- (17) **national security** has the meaning that security has in the **Australian Security Intelligence Organisation Act 1979** of the Commonwealth;
- (18) **prohibited person** means a person who has resided in, visited, been in, or travelled through a **hot zone** or a **red zone**, a **green zone** and/or is required to self-isolate or self-quarantine in the State of New South Wales in the 14 days prior to the entry, or attempted entry, into Victoria, or has resided in, visited, been in, or travelled through, the Blue Mountains City Council local government area and / or Wollongong City Council local government area since 27 December 2020 or in the 14 days prior to the date of entry, or attempted entry, into Victoria (whichever is later), but does not include:
 - (a) a person who is domestic flight crew and resides in a red zone (but not the hot zone), provided that the person wears a **face covering** during each flight to and from Victoria and otherwise complies with all airline requirements and airline **COVIDSafe Plan** whilst in Victoria; or
 - (b) a person who is domestic flight crew and resides outside New South Wales, provided that the person wears a face covering during each flight to and from Victoria and otherwise complies with all airline requirements and airline **COVIDSafe Plan** whilst in New South Wales and Victoria; or
 - (c) a person arriving by aircraft at and transiting through an airport in a red zone, provided that such person does not leave the airport until their flight; or

Note: it is recommended that such a person wears a face covering during such travel.

- (d) a person whose ordinary place of residence is in Victoria travelling from hotel quarantine in New South Wales to Victoria through a red zone:
- (i) to an airport in a red zone, provided that such person travels directly to the airport, does not leave the airport until their flight and wears a face covering during the flight to Victoria;
- Note: the Stay Safe Directions (Victoria) contain requirements for the wearing of a face covering in an airport terminal.*
- (ii) by car, provided that such a person does not stop in New South Wales (except for an emergency) until they are in Victoria;
- (19) **red zone** means any location that people have resided in, visited, been in or travelled through that has been assessed as high risk for SARS-CoV-2 transmission in the State of New South Wales, as detailed on the Department's website available at www.coronavirus.vic.gov.au/victorian-border-crossing-permit, as amended from time to time by the Victorian Government;
- Note: the entire State of New South Wales will be in the red zone from 11:59:00 pm on 1 January 2020.*
- (20) **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;
- (21) **school** means a registered school as defined in the **Education and Training Reform Act 2006**;
- (22) **Stay Safe Directions (Victoria)** means the **Stay Safe Directions (Victoria) (No. 7)** as amended from time to time;
- (23) **Service Victoria CEO** has the same meaning as in the **Service Victoria Act 2018**.

8 Penalties

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

False or misleading information

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

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

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

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

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

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

- (3) In a proceeding for an offence against subsection (1) or (2) it is a defence to the charge for the accused to prove that at the time at which the offence is alleged to have been committed, the accused believed on reasonable grounds that the information, statement or document was true or was not misleading.
- (2) Section 203 of the PHW Act provides:
- Compliance with direction or other requirement**
- (1) A person must not refuse or fail to comply with a direction given to the person, or a requirement made of the person, in the exercise of a power under an authorisation given under section 199.
- Penalty: In the case of a natural person, 120 penalty units;
In the case of a body corporate, 600 penalty units.
- Note: currently, 120 penalty units equals \$19,826.40 and 600 penalty units equals \$99,132.00.*
- (2) A person is not guilty of an offence against subsection (1) if the person had a reasonable excuse for refusing or failing to comply with the direction or requirement.
- (3) A person who fails to comply with these directions is liable for an on-the-spot fine of:
- (a) \$1,652 in the case of a natural person; or
(b) \$9,913 in the case of a body corporate.
- (4) Additionally, a person who fails to comply with these directions may in certain circumstances be liable to prosecution under the PHW Act for the maximum penalties outlined in subclause (2).

Dated 1 January 2021

DR CLARE LOOKER
Deputy Chief Health Officer,
as authorised by the Chief Health Officer to exercise
emergency powers under section 199(2)(a) of the PHW Act.

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