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Public Health and Wellbeing Act 2008 Section 200

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

New South Wales Border Crossing Permit Scheme Directions (No. 8)

I, Professor Allen Cheng, Acting 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. 7)** and:
- (a) amend the conditions of entry for a **commercial freight worker** entering Victoria under a **border permit**, including by removing the requirement to self-quarantine in Victoria; and
 - (b) clarify the testing requirements for a person entering Victoria under a border permit; and
 - (c) clarify the grounds for permitting a returning Victorian resident to enter Victoria without a border permit; and
 - (d) add a power of exemption to permit entry to Victoria to Victorian residents who seek to return to their ordinary place of residence in Victoria, where the resident has not travelled through an area of New South Wales since that area was deemed a **red zone** or a **hot zone**,
- 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. 8)**.

3 Commencement and revocation

- (1) The **New South Wales Border Crossing Permit Scheme Directions (No. 7)** are revoked at 11:59:00 pm on 7 January 2021.
- (2) These directions commence at 11:59:00 pm on 7 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 (12), 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 clause 6(6)(a)(ii)) has granted an exemption under clause 6.

Agricultural workers and essential service workers

- (2) Subject to the requirements in subclause (3), the following prohibited persons may enter Victoria from New South Wales:
- (a) an **agricultural worker** who is:
 - (i) required to enter and be physically present in Victoria to provide agricultural services provided under the **Agricultural Worker's Code**;
 - or

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- (ii) a Victorian resident who has been required to enter and be physically present in New South Wales for the purpose of the provision of agricultural services provided under the **Agricultural Worker's Code** who is returning to their ordinary place of residence in Victoria;
- (b) an **essential service worker** who is:
 - (i) required to enter and be physically present in Victoria for the purpose of providing an **essential service**; or
 - (ii) a Victorian resident who has been required to enter and be physically present in New South Wales for the purpose of the provision of providing an essential service who is returning to their ordinary place of residence in Victoria.
- (3) A person referred to in subclause (2) may only enter Victoria from New South Wales if:
 - (a) 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):
 - 1. the person (and any person under the age of 18 or other dependant travelling with the person):
 - (i) is not a **diagnosed person** or someone who has been in close contact with a diagnosed person; and
 - (ii) is not experiencing **SARS-CoV-2 Symptoms**; and;
 - (iii) will comply with the requirements of subclauses (4)(a) to (f); and
 - 2. the information in the border permit and attestation is true and correct; and
 - 3. the person is travelling to Victoria for one of the purposes set out in subclause (2); and
 - (ii) photographic personal identification including the address at which the person ordinarily resides (unless the person is under the age of 18).
 - (4) After an agricultural worker or an essential service worker referred to in subclause (2) has entered Victoria from New South Wales:
 - (a) the person must be tested for SARS-CoV-2:

- (i) subject to subparagraph (ii), once in the 7 days after the day the person first exited New South Wales under their border permit and once during the period that is between 8 and 14 days after the day the person first exited New South Wales under their border permit; or
- (ii) if the person is a worker at an **offshore petroleum or gas storage facility** who cannot reasonably be tested for SARS-CoV-2 while working, within 48 hours of arrival into Victoria; and
- (b) the person must provide documentary evidence that they have been tested in accordance with paragraph (a) 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; and
- (c) as applies to the person, the person must only remain in Victoria for the period reasonably necessary to provide agricultural services or an essential service, unless the person is a Victorian resident who has entered Victoria to return to their ordinary place of residence in Victoria; and
- (d) the person must minimise contact with other persons while working or for 14 days after entry if the person is a Victorian resident who has entered Victoria to return to their ordinary place of residence in Victoria; and
- (e) unless the person remains at all times within a **Cross Border Community Area**, the person must self-quarantine 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 for 14 days, commencing from when the person last left a hot zone or red zone, when not providing agricultural services or an essential service (as applies to the person) and must only leave that premises:
 - (i) to obtain takeaway food and drink; or
 - (ii) to access toilet and bathroom facilities; or
 - (iii) to obtain medical care or medical 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) the person must wear a **face covering**, unless the person is exempt from the requirement to wear a face covering in accordance with clause 5(7) and (8) of the **Stay Safe Directions (Victoria)**, for 14 days commencing from when the person last left a hot zone or red zone:
 - (i) in all indoor places and in all outdoor public places where the person is unable to practise **physical distancing**; and
 - (ii) when in a vehicle if the person is in the vehicle with any other person with whom the person does not ordinarily reside at a private premises.

Note: an agricultural worker or essential service worker eligible to enter Victoria under a border permit in accordance with subclauses (2) and (3) may under subclause (10) be accompanied by a dependent child under the age of 18 years or other dependent person, such as an adult with a disability, if the dependant is to receive emergency or essential medical care or other urgent care, provided the dependant complies with the requirements under subclauses (11) and (12) when in Victoria.

Commercial freight workers

- (5) Subject to the requirements in subclause (6), a prohibited person who is a **commercial freight worker**:
 - (a) who is required to enter and be physically present in Victoria for the purpose of providing commercial freight services; or

- (b) who is a Victorian resident who has been required to enter and be physically present in New South Wales for the purpose of the provision of commercial freight services who is returning to their ordinary place of residence in Victoria, may enter Victoria from New South Wales if the person:
 - (c) kept a record of their travel in New South Wales from 11:59:00 pm on 7 January 2021 or in the previous 14 days (whichever is later), including each place they have stopped at and places of accommodation; and
 - (d) minimised their contact with other persons (except in cases of emergency) while in New South Wales; and
 - (e) practised physical distancing while in New South Wales; and
 - (f) not carried any person as a passenger, other than for the purposes of the provision of commercial freight services, while in New South Wales.
- (6) A person referred to in subclause (5) may only enter Victoria from New South Wales if:
- (a) 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):
 - 1. the person (and any person under the age of 18 or other dependant travelling with the person):
 - (iv) is not a **diagnosed person** or someone who has been in close contact with a diagnosed person; and
 - (v) is not experiencing **SARS-CoV-2 Symptoms**; and;
 - (vi) will minimise contact with other persons while working or for 14 days after entry if the person is a Victorian resident who has entered Victoria to return to their ordinary place of residence in Victoria; and
 - (vii) will comply with the requirements of subclauses (7)(a) to (g); and
 - 2. the information in the border permit and attestation is true and correct; and
 - 3. the person is travelling to Victoria for a purpose set out in subclause (5)(2); and

- (ii) photographic personal identification including the address at which the person ordinarily resides (unless the person is under the age of 18).
- (7) After a commercial freight worker referred to in subclause (5) has entered Victoria from New South Wales, the person must:
 - (a) be tested for SARS-CoV-2 once in the 7 days after the day the person first exited New South Wales under their border permit and once during the period that is between 8 and 14 days after the day the person first exited New South Wales under their border permit; and
 - (b) provide documentary evidence that they have been tested in accordance with paragraph (a) (including evidence of the person's most recent test) 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; and
 - (c) only remain in Victoria for the period reasonably necessary to provide commercial freight services, unless the person is a Victorian resident who has entered Victoria to return to their ordinary place of residence in Victoria; and
 - (d) minimise contact with other persons while working or for 14 days after entry if the person is a Victorian resident who has entered Victoria to return to their ordinary place of residence in Victoria; and
 - (e) not work while experiencing SARS-CoV-2 Symptoms; and
 - (f) keep a record of their travel, including each place they stop at in Victoria and places of accommodation; and
 - (g) wear a face covering, unless the person is exempt from the requirement to wear a face covering in accordance with clause 5(7) and (8) of the Stay Safe Directions (Victoria), for 14 days commencing from when the person last left a hot zone or red zone:
 - (i) in all indoor places and in all outdoor public places where the person is unable to practise physical distancing; and
 - (ii) when in a vehicle if the person is in the vehicle with any other person with whom the person does not ordinarily reside at a private premises.

Note: a commercial freight worker eligible to enter Victoria under a border permit in accordance with subclauses (5) and (6) may under subclause (12) be accompanied by a dependent child under the age of 18 years or other dependent person, such as an adult with a disability, if the dependant is to receive emergency or essential medical care or other urgent care, provided the dependant complies with the requirements under subclauses (13) and (14) when in Victoria.

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

- (8) A person who resides in, or has visited, a State or Territory other than New South Wales, may only enter Victoria from New South Wales 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) has not had an overnight stay in New South Wales during transit to Victoria; and
 - (iii) 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
 - (iv) keeps a record of each place they stopped in New South Wales when transiting through New South Wales to Victoria; and

- (v) keeps a record of each place they stop at in Victoria until the person either transits through Victoria or arrives at their ordinary place of residence if that place is in Victoria; and
- (vi) wears a face covering in all public places, unless the person is exempt from the requirement to wear a face covering in accordance with clause 5(7) and (8) of the Stay Safe Directions (Victoria); 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):
 1. the person (and any person under the age of 18 or other dependant travelling with the person):
 - (i) has not been in New South Wales for the last 14 days (other than to transit to Victoria); and
 - (ii) has not had an overnight stay in New South Wales during transit to Victoria; and
 - (iii) is not a diagnosed person or someone who has been in close contact with a diagnosed person; and
 - (iv) is not experiencing SARS-CoV-2 Symptoms; and
 - (v) will comply with the requirements of subclause (8)(a); and
 2. 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 for the purpose they entered Victoria (unless Victoria is their normal place of residence) and minimises contact with other persons whilst in Victoria.

People arriving from New South Wales to transit through Victoria to another State or a Territory

- (9) Despite subclause (1), a prohibited person arriving from New South Wales may enter Victoria from New South Wales if:
 - (a) the person:
 - (i) minimises contact with other persons in Victoria whilst transiting through Victoria (except in the case of emergency); and

- (ii) keeps a record of each place they stop at in Victoria when transiting through Victoria to another State or a Territory; and
 - (iii) wears a face covering in all public places, unless the person is exempt from the requirement to wear a face covering in accordance with clause 5(7) and (8) of the Stay Safe Directions (Victoria); and
 - (iv) practises physical distancing; 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) the 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
 - 4. will comply with the requirements of subclause (9)(a); 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 for the purpose of transiting through Victoria to another State or a Territory.

Cross Border Community Members

- (10) 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 other than the Cross Border Community Area or been 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 or the 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 a 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); and
- (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 (No.t 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

- (11) 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 (except for persons from a Cross Border Community Area); and
 - (b) prohibits or prevents any person who resides in, visits, has been in or travelled through New South Wales (except for persons from a Cross Border Community Area) from travelling on the Murray River with them or entering Victoria with them.
- (12) Despite subclause (1), a prohibited person may enter Victoria without a border permit:
 - (a) to provide, receive or accompany a dependant who is to receive, emergency or essential medical care or other urgent care; or

Example: essential medical care includes medical care requiring continuity of treatment, such as chemotherapy or dialysis treatment.

Example: other urgent care may include essential care for a person with a disability or a dependant of a person, if there are no alternate care arrangements available, but does not include ordinary child-minding services.
 - (b) if the prohibited person is a Victorian resident returning to Victoria after leaving Victoria for the purposes of providing, receiving or accompanying a dependant who received, emergency or essential medical care or other urgent care; or
 - (c) to provide or receive emergency services or to ensure the provision of telecommunications, critical infrastructure, essential prevention and recovery from emergencies and essential public services (including **emergency workers**, healthcare workers, care facility workers and child protection workers); or

Note: a prohibited person under paragraph (b)(c) will be required to carry a letter from their employer evidencing the need for that worker to travel across the border.
 - (d) if the prohibited person is a Victorian resident returning to Victoria after leaving Victoria for the purposes of providing, receiving emergency services or ensuring the provision of telecommunications, critical infrastructure, essential prevention and recovery from emergencies and essential public services (including emergency workers, healthcare workers, care facility workers and child protection workers); or
 - (e) to escape harm or the risk of harm, including harm relating to family violence or violence of another person; or

- (f) if the prohibited person is a Victorian resident returning to Victoria after leaving Victoria to escape harm or the risk of harm, including harm relating to family violence or violence of another person; or
 - (g) if they are a **school** student travelling on a bus; or
 - (h) where the prohibited person remains on the same premises where that premises is both in the State of New South Wales and Victoria; or
 - (i) for purposes related to the administration of justice in Victoria; or
Example: prison transfers.
 - (j) if the prohibited person is a Victorian resident returning to Victoria after leaving Victoria for purposes related to the administration of justice; or
Example: following attendance at a court hearing in New South Wales.
 - (k) as required or authorised by law or;
 - (l) if the prohibited person is a Victorian resident returning to Victoria after leaving Victoria as required or authorised by law; or
 - (m) for the purposes of state security or **national security**; or
 - (n) if the prohibited person is a Victorian resident returning to Victoria after leaving Victoria for the purposes of state security or national security.
- (13) For the avoidance of doubt, whenever a prohibited person is in Victoria, they are subject to the Directions currently in force.
- (14) Where a prohibited person enters Victoria in accordance with subclause (12)(a), (b), (c), (d), (e), (f), (i), (j), (k), (l), (m) or (n):
- (a) the prohibited person must only remain in Victoria for period necessary for the purpose (unless Victoria is their normal place of residence); and
 - (b) if the prohibited person has been in any part of New South Wales outside a Cross Border Community area, the prohibited person must, for a period of 14 days from entry into Victoria:
 - (i) self-quarantine at the premises at which they ordinarily reside or another premises that is suitable for the prohibited person to reside in for the purpose of self-quarantine when not performing the activity for which they were permitted entry; and
 - (ii) only leave the premises of self-quarantine:
 - (A) to perform the activity for which they were permitted entry; or
 - (B) to obtain medical care or medical supplies; or
 - (C) to get tested for SARS CoV-2; or
 - (D) in an emergency situation; or
 - (E) if required to do so by law; and
 - (iii) if the prohibited person has entered Victoria under subclause (12)(e) (escaping harm), only self-quarantine in accordance with subparagraphs (i) and (ii) to the extent it is reasonably practicable to do so in all the circumstances; and
 - (c) the prohibited person must wear a face covering when in public for a period of 14 days from entry into Victoria (over and above the Directions in force, unless the person is exempt from the requirement to wear a face covering in accordance with clause 5(7) and (8) of the Stay Safe Directions (Victoria)); and
 - (d) the prohibited person 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) and (3) or (5) and (6) or (8) or (9) applies and the person makes an application under subclause (1) and the application complies with the requirements under subclause (2); and
 - (b) may 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) or (5) and (6) or (8) or (9) 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 (5).
- (2) A person may request an exemption by:
 - (a) using a digital system provided by the Service Victoria CEO and other parts of the Victorian Government; or
 - (b) contacting the Department by phone (or other method determined by the Department from time to time).
- (3) A request for an exemption must contain all information reasonably required by the Department from time to time, for the purpose of protecting public health.
- (4) The Service Victoria CEO will provide any information contained in an exemption request under subclause (2)(a) to the Department.
- (5) The Chief Health Officer or Deputy Chief Health Officer (or the Secretary or a Deputy Secretary to the Department or an Executive Director or Director in the public health branch of the Department in relation to an exemption request under subclause (6)(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.
- (6) In circumstances where a prohibited person is seeking an exemption, before granting any exemption the Chief Health Officer or Deputy Chief Health Officer (or the Secretary or a Deputy Secretary to the Department or an Executive Director or Director in the public health branch of the Department in relation to an exemption request under paragraph (a)(ii)) 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:

- (A) for the purposes of:
1. attending a funeral or end of life event; or
 2. 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; or
 3. returning to the person's ordinary place of residence for health, wellbeing, care or compassionate reasons; or
 4. an emergency relocation; or
 5. a military transfer; or
 6. returning to the prohibited person's ordinary place of residence in Victoria where the prohibited person has not resided in, visited, been in, or travelled through:
 - a. the Blue Mountains or Wollongong areas after 11.59pm on 26 December 2020 or in the previous 14-days, whichever is later
 - b. any part of New South Wales after that part was deemed a red zone or a hot zone or in the previous 14 days, (whichever is later); and
- Note: For the Central Coast or Greater Sydney, excluding the Blue Mountains City Council local government area, this means any time in the last 14-days. For the Blue Mountains City Council and Wollongong City Council this means any time after 11:59 pm on 26 December 2020 or in the previous 14-days, whichever is later. For all other parts of NSW this means 11:59 pm on 1 January 2021 or any time in the previous 14 days, whichever is later.*
- (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 for 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.
- (7) An exemption under subclause (5):
- (a) must:
 - (i) be given by the Department, 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.
- (8) 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.
- (9) A person granted an exemption under subclause (5) must:

- (a) only enter Victoria at a point of entry designated in the exemption; and
- (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; and
 - (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 of residence is not in Victoria, evidence that they have been tested for SARS-CoV-2 in accordance with paragraph (i); and

Note: a Victorian returning to their ordinary place of residence may not need to be tested for 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 3 days starting at midnight from the date of the person's proposed travel; and

Note: an exemption will expire if travel is not completed in accordance with paragraph 0 and the person must re-apply for a new exemption if they cannot travel within 3 days of their proposed travel date.
- (d) travel directly:
 - (i) if the person is travelling by air, to the airport in New South Wales and remain at the airport until the person's flight; and
 - (ii) if the person is travelling by car, to the point of entry designated in the exemption to cross the border between Victoria and New South Wales minimising contact with other persons whilst in New South Wales; and
 - (iii) 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 paragraph (e); and
- (e) if granted an exemption other than under subclause (6)(a)(ii)(A)(6), 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; or
 - (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; and
 - (B) whether other persons with whom the person does not ordinarily reside at a private premises can be present when the person visits; and
 - (C) if the person is permitted to attend a worksite, record keeping requirements of any worksite the person attends; or
 - (iii) to obtain medical care or medical 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) if granted an exemption under subclause (6)(a)(ii)(A)(6):
 - (i) if the prohibited person enters Victoria prior to 11:59:00 pm on 15 January 2021:

- (A) be tested for SARS-CoV-2 within 24 hours of arrival in Victoria; and
 - (B) 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 commencing from when the person was last in New South Wales and only leave that premises:
 - (i) to obtain medical care or medical supplies; or
 - (ii) to get tested for SARS CoV-2; or
 - (iii) in an emergency situation; or
 - (iv) if required to do so by law; and
 - (ii) if the prohibited person enters Victoria at or after 11:59:00 pm on 15 January 2021, the prohibited person does not need to be tested for SARS CoV-2 or self-quarantine unless required to do so under any Directions currently in force; and
 - (g) wear a face covering when in public (over and above Directions in force, unless the person is exempt from the requirement to wear a face covering in accordance with clause 5(7) and (8) of the Stay Safe Directions (Victoria)); and
 - (h) practise physical distancing; and
 - (i) be tested for SARS-CoV-2 within 48 hours of arrival in Victoria; and
 - (j) advise the Department immediately if they experience any SARS-CoV-2 Symptoms.
- (10) Any exemption granted under a **revoked New South Wales Border Crossing Permit Scheme Direction** continues to have effect.

7 Definitions

In these directions:

- (1) **agricultural worker** means a person providing agricultural services who is subject to the **Agricultural Workers' Code**;
- (2) **Agricultural Workers' Code** means the 'Agricultural Workers' Code for cross state border movement' published by the Australian Government on 4 September 2020, as amended from time to time;
- (3) **authorised officer** has the same meaning as in the PHW Act;
- (4) **border permit** means the written notice (digital or otherwise) provided under clause 5;
- (5) **cleared from self-isolation** has the meaning in the **Diagnosed Persons and Close Contacts Directions**;
- (6) **commercial freight worker** means a person providing commercial freight services who is a heavy vehicle driver, rail crew or a support worker and who is subject to the **Freight Code**;
- (7) **COVIDSafe Plan** means a COVIDSafe Plan described in clause 6(3) of the **Workplace Directions (No. 15)**;
- (8) **Cross Border Community Area** means 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;

- (9) **Cross Border Community Member** means a person ordinarily residing in a **Cross Border Community Member Area**;
- (10) **Department** means the Victorian Department of Health and Human Services;
- (11) **diagnosed person** means a person who at any time between midnight on 11 December 2020 and 11:59:00 pm on 29 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**);
- (12) **Diagnosed Persons and Close Contacts Directions** means the **Diagnosed Persons and Close Contacts Directions (No. 15)** as amended from time to time;
- (13) **Directions currently in force** has the same meaning as in the **Stay Safe Directions (Victoria)**;
- (14) **emergency powers** has the same meaning as in the PHW Act;
- (15) **emergency worker** has the same meaning as in the **Sentencing Act 1991**;
- (16) **essential service** has the same meaning as in the **Essential Services Act 1958**;
- (17) **essential service worker** means a person employed to provide an **essential service**;
- (18) **face covering** has the meaning in the **Stay Safe Directions (Victoria)**;
- (19) **Freight Code** means the ‘Freight Movement Code for the Domestic Border Controls – Freight Movement Protocol’ published by the Australian Government on 7 August 2020, as amended from time to time;
- (20) **green zone** means any part of the State of New South Wales other than the **hot zone** or **red zone**;
- (21) **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;
- (22) **municipal district** has the same meaning as in the **Local Government Act 1989**;
- (23) **national security** has the meaning that security has in the **Australian Security Intelligence Organisation Act 1979** of the Commonwealth;
- (24) **offshore petroleum or gas storage facility** has the meaning that facility has in Schedule 3 to the **Offshore Petroleum and Greenhouse Gas Storage Act 2010**;
- (25) **physical distancing** means the practice of physically maintaining a distance, where it is reasonably practicable to do so, of at least 1.5 metres from any other person except those persons with whom a person ordinarily resides at a private premises;
- (26) **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 or the 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**, unless the person is exempt from the requirement to wear a face covering in accordance with clause 5(7) and (8) of the **Stay Safe Directions (Victoria)**, 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, unless the person is exempt from the requirement to wear a face covering in accordance with clause 5(7) and (8) of the Stay Safe Directions (Victoria), 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 who is domestic flight crew who:
- (i) has not been in a hot zone; and
 - (ii) wears a face covering, unless the person is exempt from the requirement to wear a face covering in accordance with clause 5(7) and (8) of the Stay Safe Directions (Victoria), during each flight to and from Victoria and when travelling between the designated crew hotel and an airport; and
 - (iii) travels directly by private transport between the designated crew hotel and any airport of arrival or departure; and
 - (iv) does not leave the designated crew hotel other than to travel to the airport of departure or in an emergency; and
 - (v) otherwise complies with all airline requirements and airline COVIDSafe Plan whilst in New South Wales and Victoria;
- (d) 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.
- (e) 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 a person travels directly to the airport, does not leave the airport until their flight and wears a face covering, unless the person is exempt from the requirement to wear a face covering in accordance with clause 5(7) and (8) of the Stay Safe Directions (Victoria), during the flight to Victoria; or
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:
 - (A) minimises contact with other persons in New South Wales when transiting from hotel quarantine to Victoria (except in the case of emergency); and
 - (B) practises **physical distancing**; and
 - (C) keeps a record of each place they stopped in New South Wales when transiting through New South Wales to Victoria; and
 - (D) keeps a record of each place they stop at in Victoria until the person either transits through Victoria or arrives at their ordinary place of residence if that place is in Victoria; and
 - (E) wears a face covering in all public places, unless the person is exempt from the requirement to wear a face covering in accordance with clause 5(7) and (8) of the Stay Safe Directions (Victoria),

provided that 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) evidence satisfactory to the requesting person of the person's completed hotel quarantine in New South Wales;

- (27) **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 has been in the red zone from 11:59:00 pm on 1 January 2020.

- (28) **revoked NSW Border Crossing Permit Scheme Directions** means the following directions:
- (a) **New South Wales Border Crossing Permit Scheme Directions**, given on 18 December 2020;
 - (b) **New South Wales Border Crossing Permit Scheme Directions (No. 2)**, given on 20 December 2020;
 - (c) **New South Wales Border Crossing Permit Scheme Directions (No. 3)**, given on 30 December 2020;
 - (d) **New South Wales Border Crossing Permit Scheme Directions (No. 4)**, given on 1 January 2021;
 - (e) **New South Wales Border Crossing Permit Scheme Directions (No. 5)**, given on 1 January 2021;
 - (f) **New South Wales Border Crossing Permit Scheme Directions (No. 6)**, given on 3 January 2021;
 - (g) **New South Wales Border Crossing Permit Scheme Directions (No. 7)**, given on 5 January 2021;
- (29) **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;
- (30) **school** means a registered school as defined in the **Education and Training Reform Act 2006**;
- (31) **Stay Safe Directions (Victoria)** means the **Stay Safe Directions (Victoria) (No. 8)** as amended from time to time;
- (32) **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 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) \$1,652 in the case of a natural person; or
 - (b) \$9,913 in the case of a body corporate; or
 - (c) \$4,957 if the contravention of these directions is constituted by refusing or failing to comply with a requirement to self-isolate or self-quarantine.
- (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 7 January 2021

PROFESSOR ALLEN CHENG
Acting 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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