

# Directions from Deputy Chief Health Officer (Communicable Disease) in accordance with emergency powers arising from declared state of emergency

## Restricted Activity Directions (No 5)

*Public Health and Wellbeing Act 2008 (Vic)*

Sections 190 and 200

I, Dr Annaliese van Diemen, Deputy Chief Health Officer (Communicable Disease), consider it necessary to eliminate or reduce the risk to public health—and reasonably necessary to protect public health—to give the following directions pursuant to sections 190(1)(a) and (g) and 200(1)(d) of the **Public Health and Wellbeing Act 2008 (Vic) (PHW Act)**:

### 1 Preamble

- (1) The purpose of these directions is to restrict the operation of certain businesses and undertakings in order to limit the spread of Novel Coronavirus 2019 (**2019-nCoV**).
- (2) These directions replace the **Restricted Activity Directions (No 4)** given on 17 April 2020, and:
  - (a) amend the list of restricted entertainment facilities to restrict the operation of certain gambling facilities;
  - (b) permit certain food and drink facilities to operate upon the premises of a workplace.
- (3) These directions must be read together with the **Stay at Home Directions (No 4)** given on 13 April 2020.

### 2 Revocation

The **Restricted Activity Directions (No 4)** are revoked with effect from midnight on 24 April 2020.

### 3 Citation

- (1) These directions may be referred to as the **Restricted Activity Directions (No 5)**.
- (2) A reference in any other direction to the **Restricted Activity Directions (No 3)** is taken to be reference to these directions.

#### 4 Definition of density quotient

The **density quotient** of a single undivided indoor space is the number calculated by dividing the total area of the space (measured in square metres) by 4.

*Example: 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 people would be permitted to be in the indoor space at the same time.*

#### 5 Pubs, bars, clubs, nightclubs and hotels

- (1) A person who owns, controls or operates a **licensed premises** in Victoria must not operate that premises between midnight on 24 April 2020 and midnight on 11 May 2020.
- (2) A **licensed premises** means a business characterised as a pub, bar, club, nightclub or hotel that supplies alcohol under a **general licence**, an **on-premises licence** or a **club licence**.
- (3) Despite subclause (1), a person who owns, controls or operates a licensed premises may operate that premises for the purposes of:
  - (a) operating a **bottleshop**; or
  - (b) providing food or drink to be consumed off the premises; or
  - (c) providing accommodation.

#### 6 Recreational facilities

- (1) A person who owns, controls or operates a **recreational facility** in Victoria must not operate that facility between midnight on 24 April 2020 and midnight on 11 May 2020.
- (2) A **recreational facility** means any of the following, whether operated on a for profit or not-for-profit basis:
  - (a) a facility used predominantly for indoor physical recreation;

*Examples: a gymnasium, indoor swimming pool, health clubs, fitness centres, yoga studio, barre and spin facility, sauna, bathhouse, wellness centre and health studio.*
  - (b) an outdoor facility that is:
    - (i) used predominantly for mini-golf, paint-ball, lawn bowling, outdoor swimming or water skiing; or
    - (ii) a golf course, go-kart track, rifle range or equestrian centre;
  - (c) subject to subclause (4), an outdoor facility that is predominantly a tennis centre or a basketball centre;
  - (d) an **indoor personal training facility**;
  - (e) a community centre or community hall;

- (f) a public library (including a toy library);
  - (g) a gallery or a museum;
  - (h) a youth centre;
  - (i) a **play centre** or publicly accessible playground;
  - (j) a skatepark;
  - (k) outdoor communal gym equipment.
- (3) For the purposes of this clause, an **indoor personal training facility** means a facility at which personal training services are the predominant activity.

*Note: outdoor personal training and other exercise may occur but must comply with the Stay at Home Directions (No 4).*

*Permitted operations — outdoor tennis and basketball centres*

- (4) Despite subclause (1), a person who owns, controls or operates an outdoor facility that is predominantly a tennis centre or a basketball centre may operate that facility if:
- (a) there is only one tennis court or basketball court in use at all times when the facility is being operated; and
  - (b) no tennis balls, tennis racquets or basketballs are made available for communal use by the facility.

*Permitted operations — essential public support service*

- (5) Despite subclause (1), a person who owns, controls or operates a recreational facility may operate that facility for the purpose of hosting an essential public support service (whether that service is provided on a voluntary basis or otherwise).

*Examples: a food bank or service for homeless persons.*

*Permitted operations — weddings and funerals*

- (6) Despite subclause (1), a person who owns, controls or operates a recreational facility may operate the facility for the purpose of a wedding or funeral, if that wedding or funeral complies with the requirements of the **Stay at Home Directions (No 4)**.

*Note: the Stay at Home Directions (No 4) limit the number of people who may attend a wedding (5 people) or funeral (10 people).*

## **7 Entertainment facilities**

- (1) A person who owns, controls or operates an **entertainment facility** in Victoria must not operate that facility between midnight on 24 April 2020 and midnight on 11 May 2020.
- (2) An **entertainment facility** means any of the following, whether operated on a for profit or not-for-profit basis:

- (a) a theatre;
- (b) a cinema;
- (c) a music hall, concert hall or auditorium;
- (d) an arena, stadium or convention centre;
- (e) an arcade;
- (f) an amusement park;
- (g) a **casino**;
- (h) a premises, the predominant purpose of which is to allow a person to participate in an **approved betting competition** or place a wager on a **wagering event**; or
- (i) an **approved venue**; or
- (j) a **brothel, sex on premises venue**, strip club, **escort agency** or other adult entertainment venue.

*Permitted operations*

- (3) Despite subclause (1), a person who owns, controls or operates an entertainment facility may operate that facility for the purpose of allowing a performance to occur at the premises, if that performance is to be broadcast (live or otherwise) via electronic means.
- (4) If a performance is held at a facility for the purposes of subclause (3), the only persons permitted to attend the facility are those necessary for the performance and the broadcasting of that performance to occur.

## 8 Places of worship

- (1) A person who owns, controls or operates a **place of worship** in Victoria must not operate that place of worship between midnight on 24 April 2020 and midnight on 11 May 2020.

*Permitted operations*

- (2) Despite subclause (1), a person who owns, controls or operates a place of worship may operate that facility for the purpose of:
  - (a) a wedding or funeral, if that wedding or funeral complies with the requirements of the **Stay at Home Directions (No 4)**; or
 

*Note: the Stay at Home Directions (No 4) limit the number of people who may attend a wedding (5 people) or a funeral (10 people).*
  - (b) hosting an essential public support service (whether that service is provided on a voluntary basis or otherwise); or
 

*Examples: a food bank or service for homeless persons.*
  - (c) conducting a ceremony at the place of worship, if that ceremony is to be broadcast (live or otherwise) via electronic means.

- (3) If a ceremony is held at a place of worship for the purposes of subclause (2)(c), the only persons permitted to attend the place of worship are those necessary for the ceremony and the broadcasting of that ceremony to occur.

## 9 Restricted retail facilities

- (1) A person who owns, controls or operates a **restricted retail facility** in Victoria must not operate that facility between midnight on 24 April 2020 and midnight on 11 May 2020.
- (2) A **restricted retail facility** means the following:
  - (a) a **beauty and personal care facility**;
  - (b) an auction house, other than for the purpose of conducting auctions remotely;
  - (c) a market stall, whether indoor or outdoor, other than a market stall the predominant business of which is the provision of food and drink for consumption off the premises of the market.

### *Markets — density*

- (3) A person who owns, operates or controls a market (including a food market) must not allow a gathering of persons for the purpose of the business of the market between midnight on 24 April 2020 and midnight on 11 May 2020, unless the total number of persons present at the market does not exceed the number calculated by dividing the total area occupied by the market (measured in square metres) by 4.

## 10 Food and drink facilities

- (1) A person who owns, controls or operates a **food and drink facility** in Victoria must not operate that facility between midnight on 24 April 2020 and midnight on 11 May 2020.
- (2) A **food and drink facility** means any of the following, whether operated on a for profit or not-for-profit basis:
  - (a) a cafe;
  - (b) a restaurant;
  - (c) a fast-food store;
  - (d) a cafeteria;
  - (e) a canteen.

### *Permitted operations*

- (3) Despite subclause (1), a person who owns, controls or operates a food and drink facility may operate that facility:
- (a) for the purposes of providing food or drink to be consumed off the premises; or
    - Note: This paragraph permits both delivery and collection of takeaway food and drink.*
  - (b) if the food and drink facility is located inside a **food court**, for the purpose of providing food or drink to be consumed outside a food court; or
  - (c) if the facility is located:
    - (i) on the premises of a hospital, if the facility is located within an area of the hospital that has been exempted from the operation of the **Hospital Visitors Directions (No 2)** pursuant to clause 6 of those directions;
    - (ii) on the premises of a **residential aged care facility**; or
    - (iii) on the premises of a childcare centre, early childhood centre or school; or
    - (iv) on the premises of a prison, correctional facility, youth justice centre or other place of custody; or
    - (v) on land that is owned or held under lease by the Commonwealth and used, or intended for use, for the purposes of defence; or
    - (vi) on premises that have a dedicated area for the purposes of providing food and drink to drivers of **fatigue-regulated heavy vehicles**; or
    - (vii) on the premises of a workplace, if the facility provides food or drink only to persons who work at the workplace; or
  - (d) for the purposes of providing food or drink to homeless persons.
- (4) A person who owns, operates or controls a food or drink facility that is permitted to operate:
- (a) under subclause (3)(c)(vi), must not permit a person to remain in the dedicated area for longer than one hour at a time;
  - (b) under subclause (3)(c)(vii), must not permit a person to remain in any dining area for longer than one hour at a time.

## **11 Accommodation facilities**

- (1) A person who owns, controls or operates an **accommodation facility** in Victoria must not operate that facility between midnight on 24 April 2020 and midnight on 11 May 2020.

(2) For the purposes of this clause, an **accommodation facility** means any of the following, whether operated on a for profit or not-for-profit basis:

- (a) a camping ground;
- (b) a caravan park.

*Permitted operations*

(3) Despite subclause (1), a person who owns, controls or operates an accommodation facility may operate that facility for the purposes of providing accommodation to:

- (a) a person whose place of residence is the accommodation facility; or
- (b) a person who is ordinarily a resident of Victoria but has no permanent place of residence in Victoria; or
- (c) a person who has a permanent place of residence in Victoria, but that place is temporarily unavailable; or
- (d) a person, on a temporary basis, who has travelled to Victoria for work purposes; or
- (e) a person who was a temporary guest of the accommodation facility on the date that these directions were given; or
- (f) a person who requires emergency accommodation, including in relation to family violence and other vulnerable groups;
- (g) a person who requires accommodation for work purposes, where their work is for the purposes of responding to the state of emergency in existence under the PHW Act.

## 12 **Swimming pools**

A person who owns, controls or operates premises in Victoria at which there is a swimming pool must not permit any person to use the swimming pool, unless the pool is at the person's private residence and not available for communal use.

## 13 **Animal facilities**

(1) A person who owns, controls or operates an **animal facility** in Victoria must not operate that facility for the purposes of allowing the public to visit that facility between midnight on 24 April 2020 and midnight on 11 May 2020.

(2) An **animal facility** means the following:

- (a) a **zoological park**;
- (b) a wildlife centre;
- (c) a petting zoo;
- (d) an aquarium;
- (e) an animal farm that is not for the purpose of producing food.

- (3) Despite subclause (1), a person who owns, controls or operates an animal facility may continue to operate the facility for the purposes of:
  - (a) treating or caring for animals; and
  - (b) performing an animal rescue function; and
  - (c) maintaining the facility.

#### 14 Real estate auctions and inspections

An **estate agent** in Victoria must not organise:

- (1) any auction to take place for the sale of a **residential property**, between midnight on 24 April 2020 and midnight on 11 May 2020, unless that auction is to be conducted remotely; and
- (2) a person to inspect a **residential property** between midnight on 24 April 2020 and midnight on 11 May 2020 for the purposes of a prospective sale or rental of the property, other than by private appointment.

#### 15 Open retail facilities — density, signage and cleaning requirements

- (1) For the purpose of this clause an **open retail facility** means a **retail facility** (or part thereof) that is not prohibited from operating by these directions.

##### *Density quotient*

- (2) A person who owns, operates or controls an **open retail facility** must not allow a gathering of persons (including employees) between midnight on 24 April 2020 and midnight on 11 May 2020 in a single undivided indoor space, unless the total number of persons present in the indoor space at the same time does not exceed the **density quotient**.

##### *Signage*

- (3) A person who owns, control or operates an **open retail facility**, which involves members of the public entering any single undivided **indoor space**, must display a sign at each public entry to each such space that states that the maximum number of people that may be present in the space at a single time is the **density quotient**, rounded down to the nearest whole number.

*Example: 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. The sign should state that the maximum number of people that may be present in the space at a single time is 9.*

##### *Cleaning*

- (4) A person who owns, controls or operates an **open retail facility** in Victoria must between midnight on 24 April 2020 and midnight on 11 May 2020 take all reasonable steps to ensure that:
  - (a) frequently touched surfaces are **cleaned** at least twice on any given day; and



- (b) surfaces are cleaned when visibly soiled; and
  - (c) surfaces are cleaned immediately after a spill on the surface.
- (5) To **clean** for the purposes of this clause, a person must wipe the surface with a disinfectant:
- (a) the label states a claim by the manufacturer that the disinfectant has anti-viral properties; or
  - (b) made by the person according to instructions issued by the Department of Health and Human Services.

## 16 Other definitions

For the purposes of these directions:

- (1) **approved betting competition** has the same meaning as in the **Gambling Regulation Act 2003**;
- (2) **approved venue** has the same meaning as in the **Gambling Regulation Act 2003**;
- (3) **a beauty and personal care facility** means the following:
  - (a) a beauty therapy salon, tanning salon, waxing salon or nail salon;
  - (b) a spa;
  - (c) a massage parlour;
  - (d) a tattoo or piercing parlour.
- (4) **brothel** has the same meaning as in the **Sex Work Act 1994**;
- (5) **bottleshop** means an area:
  - (a) that is physically attached to a licensed premises, as defined in clause 5(2); and
  - (b) where packaged alcohol is sold to be consumed off the premises;
- (6) **casino** has the same meaning as in the **Casino Control Act 1991**;
- (7) **density quotient** has the meaning in clause 4;
- (8) **escort agency** has the same meaning as in the **Sex Work Act 1994**;
- (9) **fatigue-regulated heavy vehicle** has the same meaning as in the **Heavy Vehicle National Law (Victoria)**;
- (10) **food court** has the same meaning as in the **Liquor Reform Control Act 1998**;
- (11) **hospital** has the same meaning as in the **Hospital Visitors Directions (No 2)**;
- (12) **indoor space** has the same meaning as in the **Stay at Home Directions (No 4)**;

- (13) **outdoor space** has the same meaning as in the **Stay at Home Directions (No 4)**;
- (14) **pharmacy** has the same meaning as in the **Pharmacy Regulation Act 2010**;
- (15) **premises** has the same meaning as in the PHW Act;
- (16) **place of worship** has the same meaning as in the **Heritage Act 2017**;
- (17) **play centre** means a premises, whether indoor or outdoor, that has play equipment to be used predominantly by children under the age of 12 years, but does not mean play equipment in a public park;
- (18) **residential aged care facility** has the same meaning as in the **Care Facilities Directions (No 2)**;
- (19) **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;
- (20) **sex on premises venue** has the same meaning as in section 3B of the **Sex Work Act 1994**;
- (21) **wagering event** has the same meaning as in the **Gambling Regulation Act 2003**;
- (22) **zoological park** has the same meaning as in the **Zoological Parks and Gardens Act 1995**;
- (23) The following expressions have the same meanings as they have in the **Liquor Control Reform Act 1998**:
  - (a) general licence;
  - (b) on-premises licence;
  - (c) club license;
- (24) The following expressions have the same meaning that they have in the **Estate Agents Act 1980**:
  - (a) estate agent;
  - (b) residential property.

## 17 Penalties

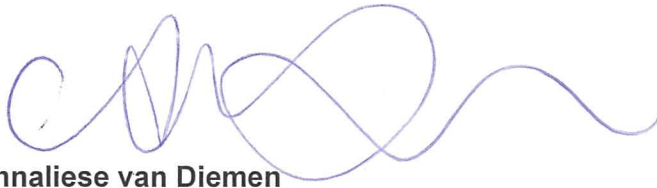
Section 203 of the PHW Act provides:

### **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.



**Dr Annaliese van Diemen**

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

24 April 2020

