

Directions from Deputy Public Health Commander in accordance with emergency powers arising from declared state of emergency

Restricted Activity Directions (Restricted Areas) (No 9)

Public Health and Wellbeing Act 2008 (Vic)

Section 200

I, Associate Professor Michelle Giles, Deputy Public Health Commander, 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 section 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 the **Restricted Area** in order to limit the spread of Novel Coronavirus 2019 (**2019-nCoV**).
- (2) These directions must be read together with the **Directions currently in force**.
- (3) These directions replace the **Restricted Activity Directions (Restricted Areas) (No 8)** restricting activities in areas of Victoria, and provide for circumstances in which:
 - (a) library services can be provided; and
 - (b) outdoor communal exercise equipment and **playgrounds** may be used, and
 - (c) provide clarification regarding childcare for vulnerable children.

2 Citation

These directions may be referred to as the **Restricted Activity Directions (Restricted Areas) (No 9)**.

3 Revocation

The **Restricted Activity Directions (Restricted Areas) (No 8)** are revoked at 11:59:00pm on 13 September 2020.

4 Restricted activity period

The **restricted activity period** is the period beginning at 11:59:00pm on 13 September 2020 and ending at 11:59:00pm on 11 October 2020.

5 Permitted Work Premises

- (1) A person who owns, controls or operates a **Permitted Work Premises** in the Restricted Area may operate that **premises** during the restricted activity period to the extent permitted by the Directions currently in force.

*Note: the restrictions on Permitted Work Premises include the relevant restrictions listed in the 'Stage 4 Restrictions – Permitted Work Premises' available at: www.dhhs.vic.gov.au/business-industry-stage-4-restrictions-covid-19 as amended from time to time by the Victorian Government, the **Permitted Worker Permit Scheme Directions (No 5)**, the **Workplace (Additional Industry Obligations) Directions (No 5)** and the **Workplace Directions (No 4)** which include requirements for **Work Premises** including record keeping, density quotient, signage and cleaning requirements.*

- (2) Despite subclause (1), a person who owns, controls or operates a Permitted Work Premises in the Restricted Area may operate that premises:
- (a) for the purpose of **essential maintenance**; or
 - (b) for the purposes of recruitment, where it is not reasonably practicable for that recruitment to occur from the place where those involved in the recruitment ordinarily reside; or

Example: Victoria Police may permit applicants for employment to attend examinations, fitness assessments and other medical and psychological screening where these activities cannot be undertaken from home.

- (c) by permitting employees to work from the place where they ordinarily reside; or
 - (d) as required or authorised by law; or
 - (e) in an emergency; or
 - (f) as otherwise permitted by the Directions currently in force.
- (3) If a Work Premises includes multiple functions and some of those functions are not **Permitted Services** or are functions which are prohibited under these directions or any other Directions currently in force, then only those functions which are not prohibited may be undertaken.

*Note: Permitted Services should be undertaken in accordance with the **Permitted Worker Permit Scheme Directions (No 5)**.*

Example: a book publishing business may operate the warehouse to deliver goods to consumers.

- (4) Where there is any inconsistency between the general obligations and the specific obligations set out in the Directions currently in force, the specific obligations will prevail.

6 Closed Work Premises

- (1) A person who owns, controls or operates a **Closed Work Premises** in the Restricted Area must not permit persons to attend that premises during the restricted activity period.

- (2) Despite subclause (1), a person who owns, controls or operates a Closed Work Premises in the Restricted Area may permit persons to attend that premises or operate the premises:
 - (a) for the purpose of essential maintenance; or
 - (b) to ensure that the premises is closed safely for the duration of the restricted activity period; or
 - (c) by permitting employees to work from the place where they ordinarily reside to operate the premises; or
 - (d) as required or authorised by law; or
 - (e) in an emergency; or
 - (f) as otherwise permitted by the Directions currently in force.

7 Exceptions

Permitted operations — professional sport

- (1) A person who owns, controls or operates a **physical recreational facility** in the Restricted Area may operate that facility if it is operated for the exclusive use of training for professional and high-performance sports persons only.
- (2) A person who operates a facility under subclause (1) must:
 - (a) only permit a person to attend the facility who is necessary for the management of the facility or professional sport training; and

Examples: coaching staff of a professional sports team, and persons employed or engaged in the management or maintenance of the facility are necessary attendees.
 - (b) not permit a **food and drink facility** to operate at the facility, other than to the extent necessary to provide food and drink to persons permitted to attend the facility under subclause 2(a).
- (3) A person who operates a facility under subclause (1) must use reasonable endeavours to implement relevant recommendations by the Victorian Government to manage public health risks arising out of the operation of the facility.

Permitted operations — Educational facilities

- (4) A person who owns, controls or operates a **school** or educational facility in the Restricted Area may only operate that facility during the restricted activity period in accordance with these directions.
- (5) A person who owns, controls or operates a school or educational facility in the Restricted Area may operate that facility for the purposes of providing services to the following persons:
 - (a) for school educational services (including at a school or non-school senior secondary provider and outside school hours care services):
 - (i) a person who is required to undertake essential Victorian Certificate of Education (VCE) or Victorian Certificate of Applied

Learning (VCAL) assessments at a school or another educational facility or institution and it is not reasonably practicable for those assessments to be undertaken from the premises where the person ordinarily resides; or

- (ii) a person whose parents or guardians ordinarily reside in:
 - (A) the **Relevant Area** and are unable to work from the premises where they ordinarily reside; or
 - (B) the **Relevant Area** and are a **permitted higher education student**, where it is not reasonably practicable for the person to obtain the **higher education services** from the premises where they ordinarily reside; or
 - (C) the **Restricted Area** and are a **permitted worker**; or
 - (D) the **Restricted Area** and are a permitted higher education student, where it is not reasonably practicable for the person to obtain the higher education services from the premises where they ordinarily reside; or

Note: If a child or young person is residing with one or more parents or guardians (including stepparents) on the relevant day, all parents or guardians must not be able to work or study from home.

- (iii) a **vulnerable child or young person in a school**; or
- (b) for higher education services if they are a permitted higher education student, where it is not reasonably practicable for the person to obtain the higher education services from the premises where they ordinarily reside.

Permitted operations — Childcare facilities

- (6) A person who owns, controls or operates a **childcare facility** in the **Restricted Area** may only operate that facility during the restricted activity period in accordance with these directions.
- (7) A person who owns, controls or operates a childcare facility in the **Restricted Area** may operate that facility for the purposes of providing services, to a parent or guardian from:
 - (a) the **Relevant Area**; or
 - (b) the **Restricted Area**, where they are the parent or guardian of a person who is a **vulnerable child or young person in a childcare or early childhood service**; or
 - (c) the **Restricted Area**, for the purposes of work if the parent or guardian is:
 - (i) a permitted worker; or
 - (ii) providing a Permitted Service; or

- (iii) a person who has received an Access to Onsite Childcare/Kindergarten Permit, or is permitted to access onsite childcare or kindergarten services without an Access to Onsite Childcare/Kindergarten Permit, under the **Permitted Worker Permit Scheme Directions (No 5)**,

provided there is no appropriate alternative care available; or

- (d) the Restricted Area, for the purposes of study if the parent or guardian is a permitted higher education student provided there is no appropriate alternative care available.

Note: only one of the parents or guardians of the child is required to be someone providing a permitted service, be a permitted worker, be a permitted higher education student, or someone who has received an Access to Onsite Childcare/Kindergarten Permit (or be permitted to access onsite childcare or kindergarten services without one).

Permitted operations — Public Library facilities

- (8) A person who owns, controls or operates a public library (including a toy library) in the Restricted Area may operate that facility during the restricted activity period in accordance with these directions for the purposes of providing a library service (including a toy library) to facilitate home delivery and non-contact collection and return of books or toys.

Permitted operations — Playground facilities and outdoor communal exercise equipment

- (9) A person who owns, controls or operates a playground or outdoor communal exercise equipment in the Restricted Area may operate that facility during the restricted activity period in accordance with these directions and for the purposes of allowing access for its ordinary use by members of the public.

8 Relationship with other directions

If there is any inconsistency between these directions and a direction or other requirement contained in a **Direction and Detention Notice**, these directions are inoperative to the extent of the inconsistency.

9 Other definitions

For the purposes of these directions:

- (1) **childcare facility** means a facility providing a **childcare or early childhood service**;
- (2) **childcare or early childhood service** means onsite early childhood education and care services or children's service provided under the:
 - (a) **Education and Care Services National Law** and the **Education and Care Services National Regulations** including long day care services, kindergarten/preschool and family day care services, but not including outside school hours care services; and

- (b) **Children's Services Act 1996** including limited hours services, budget based funded services, occasional care services, early childhood intervention services, mobile services and (if applicable) school holiday care programs;
- (3) **Closed Work Premises** means a Work Premises that is not a Permitted Work Premises;
- (4) **Direction and Detention Notice** means a notice given to a person requiring the person to be detained for a specified period;
- (5) **Directions currently in force** has the same meaning as in the **Area Directions (No 8)**;
- (6) **essential maintenance** means:
 - (a) treating or caring for animals or performing an animal rescue function; or
 - (b) critical maintenance and safety works including to satisfy environmental obligations;
- (7) **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;
- (8) **higher education services** means educational services provided at or by a university, vocational education and training providers (including registered training organisations), technical and further education (TAFE) institutes, adult community and further education, and other post-compulsory education or training;
- (9) **permitted higher education student** means a student accessing **higher education services** which are permitted to be delivered onsite as set out in the 'Education and Training' section of the 'Stage 4 Restrictions – Permitted Work Premises' available at: www.dhhs.vic.gov.au/business-industry-stage-4-restrictions-covid-19 as amended from time to time by the Victorian Government;
- (10) **Permitted Services** means the services of the **Permitted Work Premises** as set out in the 'Stage 4 Restrictions – Permitted Work Premises' available at: www.dhhs.vic.gov.au/business-industry-stage-4-restrictions-covid-19 as amended from time to time by the Victorian Government;
- (11) **Permitted Work Premises** means the **Work Premises** described as 'PERMITTED WORK PREMISES' in the 'Stage 4 Restrictions – Permitted Work Premises' available at: www.dhhs.vic.gov.au/business-industry-stage-4-restrictions-covid-19 as amended from time to time by the Victorian Government;

- (12) **permitted worker** means a person who received a **Permitted Worker Permit** or is permitted to work without a Permitted Worker Permit, under the **Permitted Worker Permit Scheme Directions (No 5)**;
- (13) **Permitted Worker Permit** has the same meaning as in the **Permitted Worker Permit Scheme Directions (No 5)**;
- (14) **personal training facility** means a business the predominant activity of which is to provide personal training services;
- (15) **physical 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 or sport;
Examples: gymnasium, health club, fitness centre, yoga studio, barre and spin facility, indoor basketball court, indoor climbing facility, squash court, table tennis centre.
 - (b) a facility used predominantly for outdoor sport or physical recreation;
Examples: golf club, tennis club, basketball centre, go kart track, rifle range, equestrian centre, mini golf, paint ball, lawn bowling, outdoor swimming or water skiing.
 - (c) a **personal training facility**;
 - (d) a **play centre**;
 - (e) a skatepark;
 - (f) a trampolining centre;
 - (g) an arena;
 - (h) a stadium;
 - (i) a swimming pool at a non-residential premises;
- (16) **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 a **playground**;
- (17) **playground** means publicly accessible outdoor play equipment in a public park;
- (18) **premises** has the same meaning as in the **PHW Act**;
- (19) **Relevant Area** means the area of Victoria outside the **Restricted Area**;
- (20) **restricted activity period** has the meaning in clause 4;
- (21) **Restricted Area** has the same meaning as in the **Area Directions (No 8)**;
- (22) **school** means a registered school as defined in the **Education and Training Reform Act 2006**;
- (23) **vulnerable child or young person in a childcare or early childhood service** means a child or young person who:
- (a) resides in the care of the State or in out-of-home care; or

- (b) is deemed vulnerable by a government agency, funded family or family violence service, and is assessed as requiring education and care outside the family home; or
 - (c) identified by a childcare or early childhood service as vulnerable, including where the vulnerability is the result of severe family stress (including via referral from a government agency, or funded family or family violence service, homeless or youth justice service or mental health or other health service);
- (24) **vulnerable child or young person in a school** means a child or young person who:
- (a) resides in the care of the State or in out-of-home care; or
 - (b) is deemed vulnerable by a government agency, funded family or family violence service, and is assessed as requiring education and care outside the family home; or
 - (c) identified by a school as vulnerable, (including via referral from a government agency, or funded family or family violence service, homeless or youth justice service or mental health or other health service); or
 - (d) has a disability and the family is experiencing severe stress;
- (25) **Work Premises** means the **premises** of an employer in which work is undertaken, including any vehicle whilst being used for work purposes.

10 Penalties

Section 203 of the PHW Act provides:

Compliance with direction or other requirement

- (1) A person must not refuse or fail to comply with a direction given to the person, or a requirement made of the person, in the exercise of a power under an authorisation given under section 199.

Penalty: In the case of a natural person, 120 penalty units;
 In the case of a body corporate, 600 penalty units.
- (2) A person is not guilty of an offence against subsection (1) if the person had a reasonable excuse for refusing or failing to comply with the direction or requirement.



Associate Professor Michelle Giles

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

13 September 2020