

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

## Permitted Worker Permit Scheme Directions (No 8)

*Public Health and Wellbeing Act 2008 (Vic)*

Section 200

I, Dr Finn Romanes, Deputy Public Health Commander, consider it reasonably necessary to eliminate or reduce the risk to public health—and reasonably necessary to protect public health—to give the following directions pursuant to section 200(1)(d) of the **Public Health and Wellbeing Act 2008 (Vic) (PHW Act)**:

### PART 1 — PRELIMINARY

#### 1 Preamble

- (1) The purpose of these directions is to address the serious public health risk posed to Victoria by Novel Coronavirus 2019 (**2019-nCoV**).
- (2) These directions establish the **Permitted Worker Permit Scheme**.
- (3) The Permitted Worker Permit Scheme details obligations on:
  - (a) **Permitted Employers** who operate a **Work Premises** in the **Restricted Area** or require an employee who ordinarily resides either in or outside the Restricted Area to attend a Work Premises; and
  - (b) employees who ordinarily reside in the Restricted Area to attend the Work Premises of a Permitted Employer,in relation to the Permitted Worker Permit Scheme, which are necessary to manage the risk associated with 2019-nCoV.
- (4) The Permitted Worker Permit Scheme is designed to allow Permitted Employers providing **Permitted Services** to operate during First Step and Second Step restrictions in Victoria, by issuing employees with a **Permitted Worker Permit** to work at a Work Premises during the **Permitted Worker Permit Scheme period**.
- (5) These directions must be read together with the **Directions currently in force**.

#### 2 Citation

- (1) These directions may be referred to as the **Permitted Worker Permit Scheme Directions (No 8)**.
- (2) The **Permitted Worker Permit Scheme Directions (No 7)** are revoked at 3:00pm on 26 October 2020.

## PART 2 — PERMITTED WORKER PERMIT SCHEME

### 3 Permitted Worker Permit Scheme period

For the purposes of these directions, the **Permitted Worker Permit Scheme period** is the period beginning at 3:00pm on 26 October 2020 and ending at 11:59:00pm on 8 November 2020.

### 4 Diagnosed Persons and Close Contacts

- (1) A person who is a **diagnosed person** or a **close contact** is not permitted to:
  - (a) hold a Permitted Worker Permit; or
  - (b) otherwise attend a Work Premises in reliance on any of the provisions contained in these directions.
- (2) If a person is notified that they are a diagnosed person or a close contact in accordance with the **Diagnosed Persons and Close Contacts Directions (No 12)**:
  - (a) they must immediately notify their employer; and
  - (b) they must not attend or remain at the Work Premises; and
  - (c) any Permitted Worker Permit is automatically revoked upon such notification.

*Note: once a person has been released or given clearance from self-isolation or self-quarantine in accordance with the **Diagnosed Persons and Close Contacts Directions (No 12)**, the terms of these directions will apply to them.*

### 5 Requirement to hold a Permitted Worker Permit to attend a Work Premises

- (1) Subject to the further requirements set out in subclause (2):
  - (a) in accordance with clauses 8(1)(a) and (2) of the **Stay at Home Directions (Restricted Areas) (No 18)**, a person who ordinarily resides in the Restricted Area may only leave the **premises** where the person ordinarily resides to attend work (whether the work is paid or voluntary, including for charitable or religious purposes) if it is not **reasonably practicable** for the person to work from the premises at which they ordinarily reside; and
  - (b) in accordance with clauses 6(1)(a) and (2) of the **Stay Safe Directions (Non-Melbourne) (No 4)**, a person who ordinarily resides in the **Relevant Area** may only leave the premises where the person ordinarily resides to attend work (whether the work is paid or voluntary, including for charitable or religious purposes) if it is not reasonably practicable for the person to work from the premises at which they ordinarily reside; and
  - (c) in accordance with clause 6 of the **Workplace Directions (No 7)**, an employer must not permit a worker to perform work at the Work Premises where it is reasonably practicable for the worker to work at

the worker's place of residence or another suitable premises which is not the Work Premises.

- (2) A person must not leave the premises at which they ordinarily reside to:
- (a) attend a Work Premises in the Restricted Area (regardless of whether they ordinarily reside in the Restricted Area or not); or
  - (b) attend a Work Premises outside of the Restricted Area, if they ordinarily reside in the Restricted Area,

unless:

- (c) the person has been issued with, and has in their possession, photographic personal identification and a current Permitted Worker Permit issued by:
    - (i) a Permitted Employer to perform a Permitted Service where clause 6(1)(a) applies; or
    - (ii) an employer where the employee ordinarily resides in the Restricted Area and attends work at a Work Premises located in the Relevant Area where clause 6(1)(b) applies; or
  - (d) an exemption in clause 9 applies.
- (3) For the avoidance of doubt, these directions apply to persons who:
- (a) ordinarily reside in the Restricted Area and are required to attend a Work Premises located within the Restricted Area; and
  - (b) ordinarily reside in the Relevant Area and are required to attend a Work Premises located within the Restricted Area; and
  - (c) ordinarily reside in the Restricted Area and are required to attend a Work Premises located in the Relevant Area.

*Note: a current Permitted Worker Permit is required in each of these three scenarios.*

## **6 Permitted Employers' duty to issue a Permitted Worker Permit**

- (1) In circumstances where clause 5 applies, and subject to clause 9, prior to:
- (a) an employee being permitted to attend work at a Work Premises located within the Restricted Area, a Permitted Employer, which conducts a Permitted Service; or
  - (b) an employee who ordinarily resides in the Restricted Area being permitted to attend work at a Work Premises located in the Relevant Area, their employer,

must issue the employee with a Permitted Worker Permit, in the approved form.

*Note 1: the approved Permitted Worker Permit form for a person attending work at a Work Premises located within the Restricted Area is available at: [www.dhhs.vic.gov.au/permitted-worker-permit-covid-19-doc](http://www.dhhs.vic.gov.au/permitted-worker-permit-covid-19-doc).*

*Note 2: the approved Permitted Worker Permit form for a person who ordinarily resides in the Restricted Area attending work at a Work Premises located in the Relevant Area is available at: [www.dhhs.vic.gov.au/permitted-worker-permit-regional-covid-19-doc](http://www.dhhs.vic.gov.au/permitted-worker-permit-regional-covid-19-doc).*

*Note 3: a Permitted Employer is only permitted to issue a Permitted Worker Permit to their own employee or volunteer, and not to other persons working in their organisation who are not employees (such as an independent contractor or sub-contractor). The Permitted Employer of a sub-contractor is required to authorise that a person is required on-site and to issue that person with a Permitted Worker Permit.*

- (1A) In circumstances where subclause (1)(b) applies, clauses 6(2) to 9 (inclusive) apply as if a reference to 'Permitted Employer' were a reference to 'employer', except that subclauses (3), (5)(g) and (h)(ii) do not apply and the reference in clause 9(1)(d) to subclause (5) is to be construed accordingly.
- (1B) Prior to a **prescribed student** being permitted to attend a **clinical placement** outside the premises at which they ordinarily reside, if the prescribed student is either attending the clinical placement:
- (a) in the Restricted Area (regardless of whether they ordinarily reside in the Restricted Area or not); or
  - (b) in the Relevant Area, if the prescribed student ordinarily resides in the Restricted Area,

the prescribed student's **prescribed higher education provider** must issue the prescribed student with a Permitted Worker Permit, in the approved form.

*Note 1: the approved Permitted Worker Permit form for a prescribed student is available at: [www.dhhs.vic.gov.au/permitted-worker-permit-higher-education-covid-19-doc](http://www.dhhs.vic.gov.au/permitted-worker-permit-higher-education-covid-19-doc).*

*Note 2: if a prescribed student has already received a Permitted Worker Permit from the organisation at which they are completing their clinical placement, they may rely on this Permitted Worker Permit and are not required to obtain a Permitted Worker Permit from their prescribed higher education provider.*

- (1C) In circumstances where subclause (1B) applies, clauses 6(4) to 9 (inclusive) apply as if a reference to:
- (a) 'Permitted Employer' were a reference to the prescribed higher education provider; and
  - (b) 'employee' were a reference to the prescribed student; and
  - (c) 'Work Premises' were a reference to the location of the prescribed student's clinical placement,

except that subclauses (5)(g) and (h)(ii) do not apply and the reference in clause 9(1)(d) to subclause (5) is to be construed accordingly.

- (2) In circumstances where clause 5 applies, and subject to clause 9, if a person does not have a Permitted Employer because they are self-employed, a sole-trader, an independent contractor or sub-contractor, or a person

appointed to or holding a statutory office, the person must issue themselves with a Permitted Worker Permit in the approved form, signed as both the Permitted Employer and the employee.

- (3) An employer must be a Permitted Employer operating or conducting a Permitted Service in order to issue an employee with a Permitted Worker Permit.
- (4) A Permitted Employer must keep a record of all Permitted Worker Permits they have issued during the Permitted Worker Permit Scheme period. A Permitted Employer must, on request, produce this record to an **Authorised Officer**, a Victoria Police Officer or a Protective Services Officer.
- (5) The Permitted Worker Permit must, amongst other things:
  - (a) be in the approved form; and
  - (b) only include details that are, to the best of the Permitted Employer's and employee's knowledge, complete, accurate and not in any way false, misleading or deceptive; and
  - (c) record relevant details of the Permitted Employer including:
    - (i) the Permitted Employer's company name; and
    - (ii) the Permitted Employer's ABN and/or ACN; and
    - (iii) the Permitted Employer's company address; and
    - (iv) the Permitted Employer's trading name; and
    - (v) the address of the Work Premises at which the employee is required to work; and  

*Note: if there is more than one Work Premises at which the employee is required to attend, this must be accompanied by a record detailing, as far as reasonably practicable, the expected place, date and time of attendance by the employee.*
    - (vi) contact details of the Permitted Employer (or an authorised representative of the Permitted Employer) including:
      - (A) contact name; and
      - (B) contact title and role in the business; and
      - (C) telephone number; and
      - (D) contact name and telephone number of a secondary representative of the Permitted Employer; and
  - (d) record relevant details of the employee including:
    - (i) the employee's full name; and
    - (ii) the employee's date of birth; and
    - (iii) the employee's address; and
  - (e) record the expected dates, hours and duration of work required to be performed by the employee (or, if those details are irregular, the possible dates, hours and duration of work likely to be performed); and



- (f) record the expected rostered hours of work for the employee during the Permitted Worker Permit Scheme period (or, if those details are irregular, the possible dates, hours and duration of work likely to be performed); and
- (g) record the Permitted Service the employee is required to provide; and
- (h) include a signed declaration by the Permitted Employer (or an authorised representative of the Permitted Employer) certifying that:
  - (i) the Permitted Employer has taken all reasonable steps to avoid the necessity for the employee to attend the Work Premises and is of the view that the employee's attendance at the Work Premises is required; and
  - (ii) the Permitted Employer's business is operating a Permitted Service; and
  - (iii) the Permitted Employer's Work Premises and work practices are compliant with all relevant legal obligations, including the public health directions issued under the PHW Act, in place at the relevant time, and the Permitted Employer's obligations under the **OHS Act** (or, where applicable, the **Work Health and Safety Act 2011** of the Commonwealth); and
  - (iv) the Permitted Employer has a COVIDSafe Plan, if required under the **Workplace Directions (No 7)**; and

*Note: an employer is required to have a COVIDSafe Plan under the **Workplace Directions (No 7)** if they require or permit work to be performed at a Work Premises.*

- (v) the Permitted Employer is and will otherwise be operating in accordance with any applicable directions issued under the PHW Act; and
- (vi) the information contained within the Permitted Worker Permit is true and correct; and

*Note 1: the Permitted Employer is not required to certify that the information provided by the employee under subclause (5)(i) is true and correct.*

*Note 2: the Permitted Employer (or an authorised representative of the Permitted Employer) may sign electronically.*

- (i) include a signed declaration by the employee certifying that:
    - (i) their own name and address as contained in the Permitted Worker Permit are true and correct; and
    - (ii) their own work hours and place of work as contained in the Permitted Worker Permit are true and correct; and
- Note: the employee may sign electronically.*
- (j) be issued, signed and dated by the Permitted Employer (or an authorised representative of the Permitted Employer).

*Note 1: the Permitted Worker Permit must be issued by a natural person residing in Victoria, unless there is no such person.*

*Note 2: the Permitted Employer (or an authorised representative of the Permitted Employer) may sign electronically.*

## **7 Employer obligations**

- (1) Subject to clause 9, an employer, including a Permitted Employer, must take all reasonable steps to ensure that a person does not enter, or remain on, their Work Premises if the person is prohibited from doing so by:
  - (a) clause 4; or
  - (b) the **Workplace Directions (No 7)**; or
  - (c) clause 8.
- (2) An employer, including a Permitted Employer, must comply with any lawful direction given by an Authorised Officer, a Victoria Police Officer or a Protective Services Officer in relation to:
  - (a) these directions; or
  - (b) a Permitted Worker Permit that the employer has issued; or
  - (c) a worker at the employer's Work Premises.
- (3) Where a Permitted Employer requires work to be performed at a Work Premises, the Permitted Employer must keep a record of those who attend the Work Premises in accordance with the **Workplace Directions (No 7)**.

## **8 Employee obligations**

- (1) Subject to clause 9, a person must not enter, or remain at, a Work Premises:
  - (a) in the Restricted Area; or
  - (b) in the Relevant Area, if the employee ordinarily resides in the Restricted Area,if they do not hold a current Permitted Worker Permit.
- (2) An employee must:
  - (a) not leave the premises at which they ordinarily reside to attend work if the employee has not been issued with a current Permitted Worker Permit to attend the Work Premises; and
  - (b) carry the Permitted Worker Permit at all times at which they have left the premises at which they ordinarily reside to perform work; and  

*Note: a person may carry either a hardcopy or an electronic copy (or both) of the Permitted Worker Permit.*
  - (c) carry photographic personal identification at all times at which they have left the premises at which they ordinarily reside to perform work.

- (3) An employee must, on request, produce to an Authorised Officer, a Victoria Police Officer or a Protective Services Officer photographic personal identification and a current Permitted Worker Permit:
  - (a) when they have left the premises in which they ordinarily reside to perform work; and
  - (b) in relation to the employee's attendances at Work Premises.

## 9 Exemptions

- (1) An employee is permitted to travel to, and enter, a Work Premises, without a current Permitted Worker Permit where:
  - (a) the primary purpose of the employee's travel and attendance at the Work Premises is to obtain their first Permitted Worker Permit from a Permitted Employer; or
  - (b) the employee is required to work from the Work Premises on short notice, rendering it impracticable for the employee to receive a current Permitted Worker Permit (or a Permitted Worker Permit that includes accurate details as to the employee's work hours or location) prior to attending the Work Premises. In these circumstances, the employee must carry a Permitted Worker Permit in relation to the same Permitted Employer which has expired, is incomplete or applies to another time period, so that if necessary the employee's Permitted Employer can be contacted to verify that the employee is required; or
  - (c) it is not reasonable for the employee to work from their ordinary place of residence because of a risk of harm (including harm relating to family violence or violence of another person at the premises); or
  - (d) in exceptional circumstances, if the employee is carrying a written document (other than in the approved form) that includes all of the details required in clause 6(5) and the approved form (without the employer's certification and signature).
- (2) An adult is permitted to travel to or from a Work Premises without a current Permitted Worker Permit in circumstances where they are transporting a dependant or a person they ordinarily reside with to or from the Work Premises in accordance with a current Permitted Worker Permit in relation to that dependant or other person.

*Note: this encompasses circumstances where, for reasons including because of age, impairment, medical condition, disability, or other reasons, a person is not able to transport themselves to the Work Premises listed on their Permitted Worker Permit and require a parent, guardian, carer or other responsible adult to transport them to their Work Premises.*
- (3) Subject to subclauses (4) and (5), the following persons are not required to be issued with, and to hold, a Permitted Worker Permit prior to entering, or remaining at, their Work Premises:
  - (a) all Victoria Police employees, Australian Defence Force employees, Australian Criminal Intelligence Commission employees, Australian



- Border Force employees, Australian Federal Police employees and employees of government intelligence and security agencies;
- (b) emergency service workers, which include officers and employees of:
    - (i) Ambulance Victoria; and
    - (ii) Australian Red Cross; and
    - (iii) Bushfire Recovery Victoria; and
    - (iv) Country Fire Authority; and
    - (v) Emergency Management Victoria; and
    - (vi) Emergency Services Telecommunications Authority; and
    - (vii) Fire Rescue Victoria; and
    - (viii) Forest Fire Management Victoria; and
    - (ix) Life Saving Victoria; and
    - (x) Marine Search and Rescue; and
    - (xi) Victoria State Emergency Service Authority; and
    - (xii) Victorian Institute of Forensic Medicine;
  - (c) hospital workers and health workers (including non-emergency patient transport workers);
  - (d) workers who need to attend a **Permitted Work Premises** or a **Closed Work Premises** in the Restricted Area for the purpose of **essential pre-opening activities** in accordance with the requirements of the **Restricted Activity Directions (Restricted Areas) (No 14)**;
  - (e) any class of person approved by the Chief Health Officer in writing and subject to any conditions specified by the Chief Health Officer.
- (4) A person is not required to have a Permitted Worker Permit under subclause (3) provided that they have photographic personal identification issued by the organisation which employs or engages them in the capacity set out in subclause (3) and which identifies the person's place of work in that capacity.
  - (5) An employee of the category defined in subclause (3) must, on request, produce the photographic personal identification referred to in subclause (4) which identifies the person's place of work to an Authorised Officer, a Victoria Police Officer or a Protective Services Officer.

### **PART 3 — REFERENCES TO ACCESS TO ONSITE CHILDCARE/KINDERGARTEN PERMIT SCHEME**

#### **10 References in other Directions currently in force**

- (1) A reference in any other Directions currently in force to:
  - (a) an Access to Onsite Childcare/Kindergarten Permit; or
  - (b) the Access to Onsite Childcare/Kindergarten Permit Scheme,

(each as defined in the **Permitted Worker Permit Scheme Directions (No 5)**) is of no effect from 11:59:00pm on 27 September 2020.

- (2) A provision in any other Directions currently in force which purports to require a person to:
  - (a) have received an Access to Onsite Childcare/Kindergarten Permit; or
  - (b) be entitled to access onsite childcare or kindergarten services without an Access to Onsite Childcare/Kindergarten Permit,

under the **Permitted Worker Permit Scheme Directions (No 5)** is of no effect from 11:59:00pm on 27 September 2020.

## **PART 4 — OTHER PROVISIONS**

### **11 Relationship with other directions**

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

### **12 Other definitions**

For the purposes of these directions:

- (1) **Authorised Officer** has the same meaning as in section 3 of the **PHW Act**;
- (2) **clinical placement** means the placement of a prescribed student in a medical, nursing, midwifery, allied health, health assistance or personal care clinical context, excluding a placement in a residential aged care facility;
- (3) **close contact** has the same meaning as in the **Diagnosed Persons and Close Contacts Directions (No 12)**;
- (4) **Closed Work Premises** has the same meaning as in the **Restricted Activity Directions (Restricted Area) (No 14)**;
- (5) **diagnosed person** has the same meaning as in the **Diagnosed Persons and Close Contacts Directions (No 12)**;
- (6) **Direction and Detention Notice** means a notice given to a person requiring the person to be detained for a specified period;
- (7) **Directions currently in force** has the same meaning as in the **Area Directions (No 9)**;
- (8) **essential pre-opening activities** has the same meaning as in the **Restricted Activity Directions (Restricted Area) (No 14)**;
- (9) **OHS Act** means the **Occupational Health and Safety Act 2004**;
- (10) **Permitted Employer** means an organisation or individual which operates a **Permitted Work Premises**;

- (11) **Permitted Services** means the services of the **Permitted Work Premises** for the purposes of the **Restricted Activity Directions (Restricted Areas) (No 14)** available at: [www.dhhs.vic.gov.au/business-industry-restrictions-by-industry-covid-19](http://www.dhhs.vic.gov.au/business-industry-restrictions-by-industry-covid-19) as amended from time to time by the Victorian Government;
- (12) **Permitted Work Premises** means the Permitted Work Premises for the purposes of the **Restricted Activity Directions (Restricted Areas) (No 14)** available at: [www.dhhs.vic.gov.au/business-industry-restrictions-by-industry-covid-19](http://www.dhhs.vic.gov.au/business-industry-restrictions-by-industry-covid-19) as amended from time to time by the Victorian Government;
- (13) **Permitted Worker Permit** means a permit issued under clause 6;
- (14) **Permitted Worker Permit Scheme** means the scheme established under these directions;
- (15) **Permitted Worker Permit Scheme period** means the period specified under clause 3;
- (16) **PHW Act** means the **Public Health and Wellbeing Act 2008**;
- (17) **premises** has the same meaning as in section 3 of the **PHW Act**;
- (18) **prescribed higher education provider** means an approved university or a TAFE institute under the **Education and Training Reform Act 2006** or a registered training organisation;
- (19) **prescribed student** means a student at a **prescribed higher education provider** studying:
  - (a) a diploma or undergraduate or postgraduate qualification in medicine, nursing, midwifery or allied health; or
  - (b) Certificate III and Certificate IV programs with a focus on health assistance or personal care;
- (20) **reasonably practicable** is to have its ordinary and common sense meaning;
- (21) **Relevant Area** means the area of Victoria outside the **Restricted Area**;
- (22) **Restricted Area** has the same meaning as in the **Area Directions (No 9)**;
- (23) **vehicle** has the same meaning as in the **PHW Act**;
- (24) **Work Premises** means the **premises** of an employer in which work is undertaken, including any **vehicle** whilst being used for work purposes.

### 13 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.

- (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:

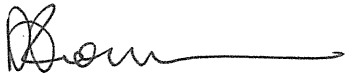
**Compliance with direction or other requirement**

- (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) \$1,600 in the case of a natural person; or
  - (b) \$9,900 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).
- (5) If the content of a Permitted Worker Permit is suspected to be fraudulent criminal investigations may be considered.



**Dr Finn Romanes**

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

26 October 2020