

Directions from Chief Health Officer in accordance with emergency powers arising from declared state of emergency

Restricted Activity Directions (Restricted Areas) (No 11)

Public Health and Wellbeing Act 2008 (Vic)

Section 200

I, Adjunct Clinical Professor Brett Sutton, Chief Health Officer, 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)**:

1 Preamble

- (1) The purpose of these directions is to restrict the operation of certain businesses and undertakings in the **Restricted Area** to address the serious public health risk posed to Victoria by 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 10)** restricting activities in areas of Victoria, and:
 - (a) clarify the types of non-residential swimming pools that are permitted to be open; and
 - (b) update the details of the return of students to **school**.

2 Citation

These directions may be referred to as the **Restricted Activity Directions (Restricted Areas) (No 11)**.

3 Revocation

The **Restricted Activity Directions (Restricted Areas) (No 10)** are revoked at 11:59:00pm on 4 October 2020.

4 Restricted activity period

The **restricted activity period** is the period beginning at 11:59:00pm on 4 October 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 'Permitted Work Premises' list for the purposes of the **Restricted Activity Directions (Restricted Areas) (No 11)** available at www.dhhs.vic.gov.au/business-industry-restrictions-by-industry-covid-19 as amended from time to time by the Victorian Government, the **Permitted Worker Permit Scheme Directions (No 6)**, the **Workplace (Additional Industry Obligations) Directions (No 7)** and the **Workplace Directions (No 6)** which include requirements for Work Premises including face covering, COVIDSafe Plan records, 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 6)**.*

Example: a book publishing business may operate a 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 — physical recreational facilities for educational or workplace purposes

- (1) A person who owns, controls or operates a **physical recreational facility** in the Restricted Area may operate that facility:
- (a) for the purpose of providing an exclusive venue for a single school at any one time for use for educational purposes; or
 - (b) if it is not open to the public.

Note: paragraph (b) is intended to permit facilities to operate that are not open to the public, such as schools, workplaces or onsite rehabilitation facilities. Member only facilities are considered open to the public.

Permitted operations — professional sport

- (2) 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 if they:
- (a) only permit a person to attend the facility if they are 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) do 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 paragraph (a); and
 - (c) use all 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 — outdoor personal training

- (3) A person who owns, controls or operates a **personal training facility** in the Restricted Area may operate that facility if:
- (a) its services are provided in an **outdoor space**; and
 - (b) the number of **members of the public** to whom its services are provided is not more than 2 in any group (with any infant under one year of age not counting in this limit); and
 - (c) the space available is suitable to ensure members of the public are reasonably capable of maintaining a distance of 1.5 metres from each other; and
 - (d) no access is permitted to indoor facilities, except toilet facilities; and
 - (e) no equipment is made available by the facility for hire, or for communal or shared use; and
 - (f) the person complies with:
 - (i) the **records requirement**; and
 - (ii) the face covering requirement in clause 5(6) and (7) of the **Stay at Home Directions (Restricted Areas) (No 17)**.

Permitted operations — outdoor swimming pools

- (4) A person who owns, controls or operates an outdoor swimming pool or chlorinated spa at a non-residential premises in the Restricted Area may permit members of the public to use the swimming pool or chlorinated spa for the purposes of exercise only if that person ensures that:
- (a) no access is permitted to indoor facilities, except for toilet facilities; and
Note: a change room is not permitted to be used as a facility for changing, but access to a change room is permitted where necessary to enable persons to access toilet facilities or the pool.
 - (b) no access is permitted to saunas within the facility; and
 - (c) no equipment is made available by the facility for hire, or for communal or shared use; and
 - (d) unless the pool is being used for the purpose of providing an exclusive venue for a single school at any one time for use for educational purposes, the number of members of the public that is permitted at any one time in the water or non-water part of the pool facility is the lesser of:
 - (i) 20 in any swimming pool or chlorinated spa; and
 - (ii) in respect of the water and non-water parts of the pool facility, the number permitted by the **density quotient**.

Note 1: a person attending an outdoor swimming pool to only sunbathe, socialise or relax by the pool is not attending the pool for the purposes of exercise.

Note 2: persons in and around the swimming pool are still required to take reasonable steps to maintain a distance of 1.5 metres from all other persons.

Note 3: outdoor hot springs cannot be used.

- (5) A person who operates a facility under subclause (4) must comply with:
- (a) the **signage requirement** for each **indoor space** and each outdoor space; and
 - (b) the **cleaning requirement**; and
 - (c) the records requirement.

Permitted operations — non-residential swimming pools

- (6) A person who owns, controls or operates a physical recreational facility that is a swimming pool at a non-residential premises in the Restricted Area may operate that facility:
- (a) if it is not open to the public; or

Note: paragraph (a) is intended to permit facilities to operate that are not open to the public, such as schools, workplaces or onsite rehabilitation facilities. Swimming pools that are located at a premises such as an apartment complex or university accommodation and member only facilities are considered open to the public.
 - (b) for the purpose of providing an exclusive venue for a single school at any one time for use for educational purposes.

Permitted operations – religious gatherings and ceremonies

- (7) A person who owns, controls or operates a **place of worship** in the Restricted Area may operate that place of worship during the restricted activity period for the purpose of conducting an outdoor religious gathering or ceremony, if:
- (a) the number of members of the public permitted to attend the gathering or ceremony is not more than 5; and
 - (b) in addition to the maximum of 5 members of the public permitted to attend the religious gathering or ceremony under paragraph (a), one **religious practitioner** employed or otherwise engaged by a **religious institution** must attend in order to lead the religious gathering or ceremony; and
 - (c) no food, drink, crockery, utensils, vessels or other equipment are permitted to be shared by participants; and
 - (d) the person complies with the records requirement.

Examples: outdoor religious gatherings include mass, Eucharist, blessings.

- (8) For the purposes of subclause (7), any outdoor religious gathering must be held in an open space proximate to the place of worship.

Permitted operations — educational facilities

Note: it is currently intended that onsite schooling in the Restricted Area will recommence on and from 12 October 2020 for:

- (a) *special schools; and*
 - (b) *Prep to Grade 6, 11 and 12, and for any student who is otherwise undertaking a Victorian Certificate of Education (VCE), Victorian Certificate of Applied Learning (VCAL), Vocational Education and Training in Schools (VETiS) or International Baccalaureate subject.*
- (9) 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:
- (a) school educational services (including at a school or non-school senior secondary provider and outside school hours care services):
 - (i) to a person who is required to undertake essential Victorian Certificate of Education (VCE), Victorian Certificate of Applied Learning (VCAL) assessments, Vocational Education and Training in Schools (VETiS) or International Baccalaureate assessments (including the General Achievement Test) including in relation to undertaking those assessments from a non-school premises; or
 - (ii) to a person if the person's sole parent or sole guardian or each of the person's parents or each of the person's guardians ordinarily resides in:
 - (A) the **Relevant Area** and is unable to work from the premises where they ordinarily reside; or
 - (B) the Relevant Area and is a **permitted higher education student** and it is not reasonably practicable for the parent or guardian to obtain the **higher education services** from the premises where the parent or guardian ordinarily resides; or
 - (C) the Restricted Area and is a **permitted worker**; or
 - (D) the Restricted Area and is a permitted higher education student and it is not reasonably practicable for the parent or guardian to obtain the higher education services from the premises where the parent or guardian ordinarily resides; 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) to a **vulnerable child or young person**; or
 - (b) higher education services onsite if they are provided to a permitted higher education student, where it is not reasonably practicable for the person to obtain the higher education services from the premises where the person ordinarily resides.

Permitted operations — childcare facilities

- (10) 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 any parent or guardian.

Permitted operations — public library facilities

- (11) 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 the extent necessary to facilitate home delivery and non-contact collection and return of books or toys.

Permitted operations — playground facilities and outdoor communal exercise equipment

- (12) 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.

Permitted operations — real estate activities

- (13) During the restricted activity period, in the Restricted Area, an **estate agent** may organise:
- (a) an inspection of a **residential property** or a display home for the purposes of a prospective sale or rental of residential property, if:
 - (i) the inspection is pre-booked and limited to a maximum of 15 minutes in duration; and
 - (ii) the only persons permitted to attend the inspection in addition to the prospective purchaser or tenant and the estate agent are, as the case applies:
 - (A) the intimate partner of the prospective purchaser or tenant or one person who ordinarily resides with the prospective purchaser or tenant; and
 - (B) any child to whom the prospective purchaser or tenant is a parent or guardian, if the prospective purchaser or tenant cannot reasonably access child-minding assistance (whether on a paid or voluntary basis) to care for the child; and
 - (b) access to a residential property or a display home for marketing purposes for the prospective sale or rental of residential property if only one person is permitted to attend the property in addition to the estate agent.

Examples: a photographer, videographer or stylist.

- (14) An estate agent that arranges an inspection or access to a residential property under subclause (13) must ensure that:
- (a) the estate agent confirms prior to the inspection or access that all attendees and occupiers of the residential property are not:
 - (i) displaying one or more **2019-nCoV Symptoms**; or
 - (ii) self-isolating or self-quarantining as required by the **Diagnosed Persons and Close Contacts Directions (No 11)**; and
 - (b) the occupiers of the residential property are not present at the premises during the inspection; and
 - Note: occupiers of the property should leave the property during the inspection for a purpose permitted under the **Stay at Home Directions (Restricted Areas) (No 17)**.*
 - (c) the residential property is well ventilated; and
 - Example: an estate agent may open external and internal doors and windows to ensure a residential property is well ventilated.*
 - (d) the estate agent complies with:
 - (i) the cleaning requirement; and
 - (ii) the density quotient; and
 - (iii) the face covering requirement in clause 5(6) and (7) of the **Stay at Home Directions (Restricted Areas) (No 17)**; and
 - Note: persons attending the inspection will also be subject to the face covering requirement in clause 5(6) and (7) of the **Stay at Home Directions (Restricted Areas) (No 17)**.*
 - (iv) the records requirement.

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) **2019-nCoV Symptoms** has the same meaning as in the **Workplace Directions (No 6)**;
- (2) **childcare facility** means a facility providing a **childcare or early childhood service**;
- (3) **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;
- (4) **cleaning requirement** has the same meaning as in the **Workplace Directions (No 6)**;
- (5) **Closed Work Premises** means a **Work Premises** that is not a **Permitted Work Premises**;
- (6) **density quotient** has the same meaning as in the **Workplace Directions (No 6)**;
- (7) **Direction and Detention Notice** means a notice given to a person requiring the person to be detained for a specified period;
- (8) **Directions currently in force** has the same meaning as in the **Area Directions (No 8)**;
- (9) **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;
- (10) **estate agent** has the same meaning as in the **Estate Agents Act 1980**;
- (11) **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;
- (12) **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;
- (13) **indoor space** means an area, room or **premises** that is or are substantially enclosed by a roof and walls, regardless of whether the roof or walls or any part of them are open or closed;
- (14) **member of the public** is a person but does not include:
 - (a) a person who is an employee of an operator of the facility or venue; or
 - (b) any other person who attends the facility or venue that is reasonably necessary for providing a service at the facility or venue;
- (15) **outdoor space** means a space that is not an **indoor space**;

- (16) **permitted higher education student** means a student accessing **higher education services**:
- (a) which are permitted to be delivered onsite as set out in the 'Education and Training' section of the 'Permitted Work Premises' for the purposes of the **Restricted Activity Directions (Restricted Areas) (No 11)** available at: www.dhhs.vic.gov.au/business-industry-restrictions-by-industry-covid-19 as amended from time to time by the Victorian Government; or
 - (b) in the **Restricted Area** where they are a final year student who requires access to in-person teaching, assessment or work placements in order to graduate by the end of January 2021; or
 - (c) in the **Restricted Area** where they are a final year apprenticeship student whose training contract ends by 31 December 2020 and needs to access onsite practical training and assessment;
- (17) **Permitted Services** means the services of the **Permitted Work Premises** as set out in the 'Permitted Work Premises' list for the purposes of the **Restricted Activity Directions (Restricted Areas) (No 11)** available at www.dhhs.vic.gov.au/business-industry-restrictions-by-industry-covid-19 as amended from time to time by the Victorian Government;
- (18) **Permitted Work Premises** means the 'Permitted Work Premises' for the purposes of the **Restricted Activity Directions (Restricted Areas) (No 11)** available at: www.dhhs.vic.gov.au/business-industry-restrictions-by-industry-covid-19 as amended from time to time by the Victorian Government;
- (19) **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 6)**;
- (20) **Permitted Worker Permit** has the same meaning as in the **Permitted Worker Permit Scheme Directions (No 6)**;
- (21) **personal training facility** means a business the predominant activity of which is to provide personal training services;
- (22) **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, water skiing.
 - (c) a **personal training facility**;
 - (d) a **play centre**;
 - (e) a skatepark;

- (f) a trampolining centre;
 - (g) an arena;
 - (h) a stadium;
- (23) **place of worship** has the same meaning as in the **Heritage Act 2017**;
- (24) **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**;
- (25) **playground** means publicly accessible outdoor play equipment in a public park;
- (26) **premises** has the same meaning as in the PHW Act;
- (27) **records requirement** has the same meaning as in the **Workplace Directions (No 6)**;
- (28) **Relevant Area** means the area of Victoria outside the **Restricted Area**;
- (29) **religious institution** means an entity registered with the Australian Charities and Not-for-Profits Commission, as a charity subtype 'advancing religion' under the **Charities Act 2013** of the Commonwealth;
- (30) **religious practitioner** has the same meaning as subsection 995-1(1) of the **Income Tax Assessment Act 1997** of the Commonwealth;
- (31) **residential property** has the same meaning as in the **Estate Agents Act 1980**;
- (32) **restricted activity period** has the meaning in clause 4;
- (33) **Restricted Area** has the same meaning as in the **Area Directions (No 8)**;
- (34) **school** means a registered school as defined in the **Education and Training Reform Act 2006**;
- (35) **signage requirement** has the same meaning as in the **Workplace Directions (No 6)**;
- (36) **vehicle** has the same meaning as in the PHW Act;
- (37) **vulnerable child or young person** 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;
- (38) **Work Premises** means the **premises** of an employer in which work is undertaken, including any **vehicle** whilst being used for work purposes.

10 Penalties

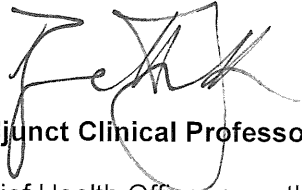
Section 203 of the PHW Act provides:

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.



Adjunct Clinical Professor Brett Sutton

Chief Health Officer as authorised to exercise emergency powers under sections 20A and 199(2)(a) of the PHW Act.

4 October 2020