

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

Workplace (Additional Industry Obligations) Directions (No 9)

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 presence of a person with a positive diagnosis of Novel Coronavirus 2019 (**2019-nCoV**) at a **Work Premises** is considered to pose an immediate risk of transmission to persons who attend, or may attend, the Work Premises.
- (2) The purpose of these directions is to limit the number of Victorians attending certain Work Premises to assist in reducing the frequency and scale of **outbreaks** of 2019-nCoV in Victorian workplaces and to establish additional specific obligations on **employers** and **workers** in specific industries in relation to managing the risk associated with 2019-nCoV.
- (3) These directions must be read together with the **Directions currently in force**.
- (4) These directions are intended to supplement any obligations an employer may have under the **OHS Act**, the **Workplace Directions (No 7)** and the **Permitted Worker Permit Scheme Directions (No 7)** and are not intended to derogate from any such obligations.
- (5) These directions replace the **Workplace (Additional Industry Obligations) Directions (No 8)** and:
 - (a) clarify the obligations of employers and labour hire providers in relation to seasonal horticultural workers; and
 - (b) impose obligations on employers in relation to Work Premises that are **care facilities**.

2 Citation

- (1) These directions may be referred to as the **Workplace (Additional Industry Obligations) Directions (No 9)**.

- (2) The **Workplace (Additional Industry Obligations) Directions (No 8)** are revoked at 11:59:00pm on 18 October 2020.

3 Deleted clause

4 Commencement

These directions commence at 11:59:00pm on 18 October 2020 and end at 11:59:00pm on 8 November 2020.

5 Application of directions to certain employers and roles

- (1) These directions apply to **Additional Obligation Industries**, namely:
- (a) **poultry processing facilities**; and
 - (b) **abattoirs and meat processing facilities**; and
 - (c) **seafood processing facilities**; and
 - (d) **supermarket Work Premises**; and
 - (e) **medical supply, pharmaceutical supply and personal protective equipment supply facilities**; and
 - (f) warehousing and distribution centres; and
 - (g) **construction sites**; and
 - (h) **retail facilities**; and
 - (i) **manufacturing facilities**;
 - (j) **wholesale facilities**;
 - (k) horticulture operations using **seasonal workers** for **seasonal horticultural work**; and
 - (l) **care facilities**.

*Note: each of these industries is described in the document titled 'Permitted Work Premises' for the purposes of the **Restricted Activity Directions (Restricted Area) (No 13)** available at: www.dhhs.vic.gov.au/business-industry-restrictions-by-industry-covid-19 (as amended from time to time by the Victorian Government) in the following categories in square brackets:*

- *Poultry processing facilities [Manufacturing];*
- *Abattoirs and meat processing [Manufacturing];*
- *Seafood processing [Manufacturing];*
- *Supermarket Work Premises [Retail trade; Transport, postal and warehousing];*
- *Medical supply, pharmaceutical supply and personal protective equipment supply facilities [Manufacturing];*
- *Warehousing and distribution centres [Transport, postal and warehousing];*

- *Construction sites [Construction];*
- *Manufacturing facilities [Manufacturing];*
- *Wholesale facilities [Wholesale Trade];*
- *Horticulture operations [Agriculture, forestry and fishing];*
- *Care facilities [Health care and social assistance].*

*Note: each of the Additional Obligation Industries is a high-risk industry for the purposes of control arrangements made under the **Emergency Management Act 2013**.*

- (2) These directions apply to Additional Obligation Industries Work Premises that are located:
- (a) in relation to poultry processing facilities, abattoirs and meat processing facilities, seafood processing facilities, horticulture operations using seasonal workers for seasonal horticultural work, and care facilities, anywhere in Victoria; and
 - (b) in relation to all other Additional Obligation Industries not referred to in subclause (2)(a), in the **Restricted Area**.
- (3) The limits on the number of workers at a Work Premises imposed in these directions apply in relation to roles carried out by a worker at the Work Premises including (but not limited to):
- (a) owner;
 - (b) manager;
 - (c) persons carrying out roles necessary to the functioning of the Work Premises;
 - (d) security personnel;
 - (e) any other person engaged or permitted by an employer to perform work at the Work Premises,

but does not apply insofar as it relates to workers:

- (f) where it is **reasonably practicable** for those workers to work from home; or

*Note: clause 6 of the **Workplace Directions (No 7)** requires that 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.*

- (g) undertaking emergency repairs and emergency maintenance; or
- (h) whose role primarily relates to:
 - (i) carrying out the **cleaning requirements** in relation to the Work Premises; or

- (ii) assurance activities in relation to the employer meeting their obligations under the **Workplace Directions (No 7)** or these directions; or
 - (i) transporting supplies to a Work Premises that is a construction site or seasonal Work Premises, where those workers are only on the construction site or seasonal Work Premises (as the case may be) for such period of time as is reasonably necessary to deliver the supplies to the construction site or seasonal Work Premises (as the case may be).
- (4) Workers that provide architecture, surveying, building inspection or engineering services must work from home where reasonably practicable. Where these workers are required to attend a Work Premises for inspection and safety purposes, they are counted as workers for the purposes of subclause (3).
- (5) Workers under subclause (4) who need to move between sites must not visit more than three Work Premises per week, except where those visits are required to meet a minimum statutory obligation or requirement.
- (6) The **daily peak workforce capacity** is the daily average of the highest number of workers at the Work Premises each day calculated over the period of:
- (a) July 2020; or
 - (b) any three consecutive months in the last 12 months.
- (7) The **daily total workforce capacity** is the daily average of the total number of workers at the Work Premises each day over the period of:
- (a) July 2020; or
 - (b) any three consecutive months in the last 12 months.

Example 1:

On one day, a distribution business had workers working over two shifts:

*6:00am to 2:00pm: 120 workers
12:00pm to 8:00pm: 150 workers*

During the crossover of the two shifts, the business had 270 workers working at the Work Premises at any one time – this is the daily peak workforce capacity on this day. Over the two shifts, the Work Premises had 270 workers working in total – this is the daily total workforce capacity on this day.

The same calculation is undertaken for each day of either July 2020 or any continuous three-month (13 week) consecutive period in the last 12 months. These figures are then averaged over the period to calculate the daily peak workforce capacity and the daily total workforce capacity over the period.

Example 2:

On one day, a meat processing business had people on the Work Premises, including employees, contractors and labour hire, working over three shifts with no cross-over of workers:

(a) 4:00am to 10:00am: 120 workers

(b) 10:30am to 4:30pm: 100 workers

(c) 5:00pm to 11:00pm: 80 workers

The daily peak workforce capacity on this day is 120 workers. Over the three shifts, the business had 300 workers working in total – this is the daily total workforce capacity on this day.

6 High Risk COVIDSafe Plan

- (1) Each Additional Obligation Industry Work Premises (except for retail facilities and manufacturing facilities), and **labour hire providers** (to the extent they provide any onsite service for seasonal workers such as transport or accommodation), must have a **High Risk COVIDSafe Plan**.

Note 1: where a Work Premises includes operations in relation an Additional Obligation Industry and another industry, the Work Premises must still have a High Risk COVIDSafe Plan to the extent these directions require a High Risk COVIDSafe Plan.

Note 2: a High Risk COVIDSafe Plan in relation to seasonal horticultural workers will be called a Seasonal Horticultural Worker COVIDSafe Plan.

- (1A) This clause 6 does not apply to care facilities, except for subclauses (5) and (5A).

Note: the exception of care facilities from the requirements in clause 6 (other than in subclauses (5) and (5A)) does not exempt care facilities from satisfying equivalent requirements imposed under other regulatory arrangements.

- (2) A **High Risk COVIDSafe Plan** is comprised of:
- (a) a COVIDSafe Plan completed in accordance with the requirements in the **Workplace Directions (No 7)** (regardless of whether an Additional Obligation Industry is required to have a COVIDSafe Plan under the **Workplace Directions (No 7)**); and
 - (b) an Additional Obligation Industry attachment to the COVIDSafe Plan for the relevant industry in the form specified on the Business Victoria website (as amended from time to time by the Victorian Government).
- (3) An employer and the employer's workers must comply with the High Risk COVIDSafe Plan.
- (4) An employer must:
- (a) comply with any direction given by an **Authorised Officer** or WorkSafe **inspector** to modify a High Risk COVIDSafe Plan, including (but not limited to):
 - (i) following an outbreak of **confirmed cases** of 2019-nCoV at a Work Premises;
 - (ii) if the Authorised Officer considers that the High Risk COVIDSafe Plan is not fit for purpose; and

- (b) implement any modifications required in accordance with subclause (4)(a).

Record-keeping obligations

- (5) An employer must keep records to demonstrate compliance with these directions, including (but not limited to):
 - (a) the High Risk COVIDSafe Plan;
 - (b) all logs created during the time these directions are in place;
 - (c) Work Premises rosters;
 - (d) time and attendance records;
 - (e) payroll data;
 - (f) records of all workers and all visitors who attend the Work Premises in accordance with the **records requirement**.
- (5A) In collecting the information outlined in subclause (5), an employer must:
 - (a) use reasonable endeavours to protect the personal information from use or disclosure, other than in accordance with a request made by an Authorised Officer; and
 - (b) destroy the information as soon as reasonably practicable, unless another statutory requirement permits or requires the personal information to be retained.

Compliance

- (6) An Authorised Officer or inspector (or their nominated representative) may conduct:
 - (a) an inspection of a Work Premises; or
 - (b) an inspection or audit of the records of an employer,to assess an employer's compliance with these directions.

Consultation

- (7) An employer in relation to an Additional Obligation Industry Work Premises (except for retail facilities) must, to the extent reasonably practicable, consult with health and safety representatives, together with workers who are, or are likely to be, directly affected:
 - (a) to identify or assess risks to health or safety at a workplace; and
 - (b) to make decisions about the measures to be taken to control risks to health and safety; and
 - (c) to determine if any risk identified under subclause (7)(a) is either under the employer's management and control or arises from the employer's conduct; and
 - (d) to make decisions about the adequacy of facilities for the welfare of workers; and

- (e) in making decisions about procedures to resolve health and safety issues, including (but not limited to):
 - (i) procedures around health and safety consultation itself;
 - (ii) procedures to monitor the health of workers and the conditions of the workplace;
 - (iii) procedures to provide information and training to workers; and
- (f) by a change to:
 - (i) a workplace; or
 - (ii) the plant, substances, or other things used at a workplace; or
 - (iii) the conduct of work performed at a workplace.

7 Additional Industry Obligations

- (1) An employer in relation to an Additional Obligation Industry Work Premises (except for retail facilities and care facilities) must:
 - (a) have a **personal protective equipment** training plan in place as soon as reasonably practicable after 11 August 2020 that:
 - (i) is consistent with best practice training plans; and
 - (ii) is provided to workers in multiple formats (for example, infographics and text); and
 - (iii) is accessible for multilingual workers; and

Note: use of pre-existing materials and other guidance is acceptable.
 - (b) have a cleaning log on display in all shared workplaces and publicly accessible areas which sets out:
 - (i) the dates, times and frequency with which the relevant area has been **cleaned**, including (but not limited to) frequently touched surfaces, toilets and handrails; and
 - (ii) shifts or other relevant worker group changes (where applicable) to show that relevant areas have been cleaned in between shift changes; and
 - (c) require workers to declare in writing at the start of each shift but before entering a Work Premises that the worker:
 - (i) is free of **2019-nCoV Symptoms**; and
 - (ii) has not been in contact with a confirmed case; and
 - (iii) is not currently required to **self-isolate** or **self-quarantine** in accordance with the **Diagnosed Persons and Close Contacts Directions (No 12)**.

Note: the exception of care facilities from the requirements in clause 7(1) does not exempt care facilities from satisfying equivalent requirements imposed under other regulatory arrangements.

- (2) Workers must not attend a Work Premises if they have been tested for 2019-nCoV because they are symptomatic whilst awaiting the result of that test or while their symptoms persist.
- (3) An employer in relation to an Additional Obligation Industry Work Premises (except for retail facilities and construction sites (noting these industries are still subject to obligations under the **Workplace Directions (No 7)**) and care facilities) must increase the regularity of comprehensive cleaning by ensuring all areas where workers are working are cleaned at least daily.

Note: the exception of care facilities from the requirements in subclause (3) does not exempt care facilities from satisfying equivalent requirements imposed under other regulatory arrangements.

Additional health screening for abattoirs and meat processing facilities, poultry processing facilities, seafood processing facilities, supermarket Work Premises and chilled distribution facilities

- (4) In relation to a Work Premises that is an abattoir, meat processing facility, poultry processing facility, seafood processing facility, **supermarket Work Premises**, or a perishable food Work Premises that is a chilled distribution facility, an employer must:
 - (a) carry out surveillance testing on its workers for 2019-nCoV at a Work Premises in accordance with the requirements of the Department of Health and Human Services; and
 - (b) designate an **employee** or employees as a **COVID Marshal**:
 - (i) whose role is to monitor compliance with these directions, including (but not limited to) physical distancing requirements; and
 - (ii) who has successfully completed training provided by the employer that is in accordance with guidance from the Department of Health and Human Services; and
 - (c) arrange operations at the Work Premises so as to have workers working consistently with the same group of other workers where reasonably practicable, including (but not limited to):
 - (i) developing separate shifts in a way that minimises physical interactions between groups of workers attending different shifts;
 - (ii) separates workers into work areas;
 - (iii) dividing work areas up further into separate teams;
 - (iv) providing separate break areas for the separate teams;
 - (v) requiring teams to use separate entrances and exits from other teams;
 - (vi) having a COVID Marshal(s) at the Work Premises whenever workers are on site;

- (vii) where workers are from the same household, ensuring they work in the same shift and work area; and
- (d) provide regular training to workers (including, but not limited to, an induction for all workers commencing at, or returning to, the Work Premises) that covers:
 - (i) good hygiene practices; and
 - (ii) advising workers not to attend the Work Premises when unwell; and
 - (iii) compliance with the requirements of subclause (4)(c).
- (e) carry out comprehensive cleaning of the Work Premises each evening; and
- (f) keep records of surveillance testing of workers for 2019-nCoV; and
- (g) keep records of duty rosters for COVID Marshals.

Additional health screening for abattoirs and meat processing facilities, poultry processing facilities and seafood processing facilities

- (5) In relation to a Work Premises that is an abattoir, meat processing facility, poultry processing facility or seafood processing facility, an employer must:
 - (a) ensure that all workers at the Work Premises wear the appropriate level of personal protective equipment:
 - (i) to carry out the functions of the worker's role; and
 - (ii) to mitigate the introduction of 2019-nCoV at the Work Premises including (but not limited to):
 - (A) at a minimum, wearing a surgical face mask; and
 - (B) a face shield; and
 - (C) suitable protective clothing which should be changed at the end of each shift and washed appropriately,
 unless it is not reasonably practicable to wear a surgical face mask, a face shield and/or protective clothing in the Work Premises or the nature of a worker's work means that it creates a risk to their health and safety; and
 - (b) subject to subclause (32)(e), ensure that workers do not work across multiple Work Premises, in accordance with the requirements in clause 7(17) to (20) (inclusive) of the **Workplace Directions (No 7)**; and
 - (c) test the temperature of each worker each day before they enter the Work Premises and, if the worker's temperature is 37.5°C or more, direct the worker to:
 - (i) leave the Work Premises immediately; and
 - (ii) be tested for 2019-nCoV; and
 - (iii) self-isolate until a negative test result is received; and

- (d) advise workers to be tested for 2019-nCoV if symptomatic and to self-isolate whilst awaiting the result of that test; and
 - (e) follow any directions from the Department of Health and Human Services in relation to observing workers for symptoms and testing of workers.
- (6) A worker who attends a Work Premises that is an abattoir, meat processing facility, poultry processing facility or seafood processing facility must not travel in a **vehicle** with another person with whom they do not ordinarily reside unless it is not otherwise reasonably practicable for either person to leave their premises for a purpose permitted under the **Stay at Home Directions (Restricted Areas) (No 19)** or the **Stay Safe Directions (Non-Melbourne) (No 5)** (as applicable).

Example: a person who does not hold a driver's licence may travel in a vehicle with another person with whom they do not ordinarily reside for the purposes of attending a Work Premises if it is not reasonably practicable for them to get there another way.

Poultry processing facilities in the Restricted Area

- (7) An employer may only operate a Work Premises that is a poultry processing facility in the Restricted Area if it reduces each of the daily peak workforce capacity and daily total workforce capacity for that Work Premises by 10 percent or to 25 workers, whichever is higher.
- (8) The **Chief Veterinary Officer** may grant an exemption in writing to the requirements of subclause (7).

Note: an exemption may only be granted where there are unavoidable animal welfare impacts that arise from workforce reductions.

Poultry processing facilities in the Relevant Area

- (9) An employer may only operate a Work Premises that is a poultry processing facility in the **Relevant Area** by reducing:
 - (a) each of the daily peak workforce capacity and the daily total workforce capacity by 10 percent; or
 - (b) each of the **weekly peak workforce capacity** and **weekly total workforce capacity** by 10 percent or to 25 workers, whichever is higher, if animal welfare issues exist that need to be managed and the employer has notified the Chief Veterinary Officer.
- (10) The Chief Veterinary Officer may grant an exemption in writing to the requirements of subclause (9).

Note: an exemption may only be granted where there are unavoidable animal welfare impacts that arise from workforce reductions.

- (11) In relation to a Work Premises that is a poultry processing facility in the Relevant Area, the **weekly peak workforce capacity** is calculated by taking the average of the peak number of workers at the Work Premises over a seven-day period, averaged across all weeks in:

- (a) July 2020 (the weeks starting 29 June 2020 and ending 2 August 2020); or
- (b) any three-month (13 week) consecutive period in the last 12 months, but will only include the days of a week that the poultry processing facility would normally operate.

Example:

Over one week, a poultry processing facility had workers working over three shifts with no cross-over of workers on five days:

4.00am to 10.00am: 120 workers

10.30am to 4.30pm: 100 workers

5.00pm to 11.00pm: 80 workers

The weekly average peak workforce capacity for this week is the average of the five daily peaks, which is 120 workers.

Undertake the same calculation for every week of either July 2020 (the weeks starting 29 June 2020 to 2 August 2020), or any 13-week continuous period in the last 12 months. Then, find the average of these figures to calculate the weekly peak workforce capacity over the period.

- (12) In relation to a Work Premises that is a poultry processing facility in the Relevant Area, the **weekly total workforce capacity** is calculated by taking the sum of the daily number of workers at the Work Premises over a seven-day period, averaged across all weeks in:

- (a) July 2020 (the weeks starting 29 June 2020 and ending 2 August 2020); or
- (b) any three-month (13 week) consecutive period in the last 12 months, but will only include the days of a week that the poultry processing facility would normally operate.

Example:

On one day, a poultry processing facility had people onsite, including employees, contractors and labour hire, working over three shifts with no cross-over of workers:

4.00am to 10.00am: 120 workers

10.30am to 4.30pm: 100 workers

5.00pm to 11.00pm: 80 workers

The daily total workforce capacity on this day is 300 workers. If it ran this shift structure over five days, the weekly total workforce capacity would be 1,500.

Undertake the same calculation for every week of either July 2020 (the weeks starting 29 June 2020 to 2 August 2020), or any 13-week continuous period in the last 12 months. Then, find the average of these figures to calculate the weekly total workforce capacity over the period.

Abattoirs and meat processing facilities in the Restricted Area

- (13) An employer may only operate a Work Premises that is an abattoir or meat processing facility in the Restricted Area if it reduces each of the daily peak workforce capacity and daily total workforce capacity by 20 percent or to 25 workers, whichever is higher.
- (14) The Chief Veterinary Officer may grant an exemption in writing to the requirements of subclause (13).

Note: an exemption may only be granted where there are unavoidable animal welfare impacts that arise from workforce reductions.

Abattoirs and meat processing facilities in the Relevant Area

- (15) An employer may only operate a Work Premises that is an abattoir or meat processing facility in the Relevant Area by reducing:
- (a) each of the daily peak workforce capacity and the daily total workforce capacity by 10 percent; or
 - (b) each of the weekly peak workforce capacity and weekly total workforce capacity by 10 percent or to 25 workers, whichever is higher, if animal welfare issues exist that need to be managed and the employer has notified the Chief Veterinary Officer.
- (16) The Chief Veterinary Officer may grant an exemption in writing to the requirements of subclause (15).

Note: an exemption may only be granted where there are unavoidable animal welfare impacts that arise from workforce reductions.

- (17) In relation to a Work Premises that is an abattoir or meat processing facility in the Relevant Area, the weekly peak workforce capacity is calculated by taking the average of the peak number of workers at the Work Premises over a seven-day period, averaged across all weeks in:
- (a) July 2020 (the weeks starting 29 June 2020 and ending 2 August 2020); or
 - (b) any three-month (13 week) consecutive period in the last 12 months, but will only include the days of a week that the abattoir or meat processing facility would normally operate.

Example:

Over one week, a meat processing facility had workers working over three shifts with no cross-over of workers on five days:

4.00am to 10.00am: 120 workers

10.30am to 4.30pm: 100 workers

5.00pm to 11.00pm: 80 workers

The weekly average peak workforce capacity for this week is the average of the five daily peaks, which is 120 workers.

Undertake the same calculation for every week of either July 2020 (the weeks starting 29 June 2020 to 2 August 2020), or any 13-week continuous period in the last 12 months. Then, find the average of these figures to calculate the weekly peak workforce capacity over the period.

- (18) In relation to a Work Premises that is an abattoir or meat processing facility in the Relevant Area, the weekly total workforce capacity is calculated by taking the sum of the daily number of workers at the Work Premises over a seven-day period, averaged across all weeks in:
- (a) July 2020 (the weeks starting 29 June 2020 and ending 2 August 2020); or
 - (b) any three-month (13 week) consecutive period in the last 12 months, but will only include the days of a week that the abattoir or meat processing facility would normally operate.

Example:

On one day, a meat processing facility had people onsite, including employees, contractors and labour hire, working over three shifts with no cross-over of workers:

4.00am to 10.00am: 120 workers

10.30am to 4.30pm: 100 workers

5.00pm to 11.00pm: 80 workers

The daily total workforce capacity on this day is 300 workers. If it ran this shift structure over five days, the weekly total workforce capacity would be 1,500.

Undertake the same calculation for every week of either July 2020 (the weeks starting 29 June 2020 to 2 August 2020), or any 13-week continuous period in the last 12 months. Then, find the average of these figures to calculate the weekly total workforce capacity over the period.

Seafood processing facilities in the Restricted Area

- (19) An employer may only operate a Work Premises that is a seafood processing facility in the Restricted Area if it reduces each of the daily peak workforce capacity and daily total workforce capacity by 20 percent or to 40 workers, whichever is higher.
- (20) The Chief Veterinary Officer may grant an exemption in writing to the requirements of subclause (19).

Note: an exemption may only be granted where there are unavoidable animal welfare impacts that arise from workforce reductions.

Seafood processing facilities in the Relevant Area

- (21) An employer may only operate a Work Premises that is a seafood processing facility in the Relevant Area by reducing:
- (a) each of the daily peak workforce capacity and the daily total workforce capacity by 10 percent; or
 - (b) each of the weekly peak workforce capacity and weekly total workforce capacity by 10 percent or to 40 workers, whichever is higher, if animal welfare issues exist that need to be managed and the employer has notified the Chief Veterinary Officer.
- (22) The Chief Veterinary Officer may grant an exemption in writing to the requirements of subclause (21).

Note: an exemption may only be granted where there are unavoidable animal welfare impacts that arise from workforce reductions.

(23) In relation to a Work Premises that is a seafood processing facility in the Relevant Area, the weekly peak workforce capacity is calculated by taking the average of the peak number of workers at the Work Premises over a seven-day period, averaged across all weeks in:

- (a) July 2020 (the weeks starting 29 June 2020 and ending 2 August 2020); or
- (b) any three-month (13 week) consecutive period in the last 12 months, but will only include the days of a week that the seafood processing facility would normally operate.

Example:

Over one week, a seafood processing facility had workers working over three shifts with no cross-over of workers on five days:

*4.00am to 10.00am: 120 workers
10.30am to 4.30pm: 100 workers
5.00pm to 11.00pm: 80 workers*

The weekly average peak workforce capacity for this week is the average of the five daily peaks, which is 120 workers.

Undertake the same calculation for every week of either July 2020 (the weeks starting 29 June 2020 to 2 August 2020), or any 13-week continuous period in the last 12 months. Then, find the average of these figures to calculate the weekly peak workforce capacity over the period.

(24) In relation to a Work Premises that is a seafood processing facility in the Relevant Area, the weekly total workforce capacity is calculated by taking the sum of the daily number of workers at the Work Premises over a seven-day period, averaged across all weeks in:

- (a) July 2020 (the weeks starting 29 June 2020 and ending 2 August 2020); or
- (b) any three-month (13 week) consecutive period in the last 12 months, but will only include the days of a week that the seafood processing facility would normally operate.

Example:

On one day, a seafood processing facility had people onsite, including employees, contractors and labour hire, working over three shifts with no cross-over of workers:

*4.00am to 10.00am: 120 workers
10.30am to 4.30pm: 100 workers
5.00pm to 11.00pm: 80 workers*

The daily total workforce capacity on this day is 300 workers. If it ran this shift structure over five days, the weekly total workforce capacity would be 1,500.

Undertake the same calculation for every week of either July 2020 (the weeks starting

29 June 2020 to 2 August 2020), or any 13-week continuous period in the last 12 months. Then, find the average of these figures to calculate the weekly total workforce capacity over the period.

Supermarket Work Premises and perishable food warehouses and distribution facilities

- (25) In relation to supermarkets and perishable food warehouses and distribution facilities:
- (a) **supermarket Work Premises** means the total of all supermarket distribution facilities;
 - (b) **perishable food Work Premises** means:
 - (i) a Work Premises that is predominantly a perishable food facility; and
 - (ii) the total of all perishable food goods supply chain.
- (26) In relation to any supermarket Work Premises or perishable food Work Premises that is a chilled distribution facility, an employer must ensure that all workers at the supermarket Work Premises or perishable food Work Premises (as applicable) wear a surgical face mask, unless the nature of a worker's work means that it creates a risk to their health and safety.

Note: surgical face masks may create a risk to health and safety in those parts of a chilled distribution facility where the temperature is below negative five degrees Celsius. If a surgical face mask cannot be worn, the employer is still required to ensure an employee uses a suitable fitted face covering, such as a cloth mask of three plies.

Warehousing and distribution centres

- (27) In relation to a Work Premises that is a chilled distribution facility in relation to warehousing and distribution centres, an employer must ensure that all workers at the Work Premises wear a surgical face mask, unless the nature of a worker's work means that it creates a risk to their health and safety.

Note: surgical face masks may create a risk to health and safety in those parts of a chilled distribution facility where the temperature is below negative five degrees Celsius. If a surgical face mask cannot be worn, the employer is still required to ensure an employee uses a suitable fitted face covering, such as a cloth mask of three plies.

Medical supply, pharmaceutical supply and personal protective equipment supply facilities

- (28) An employer may only operate a Work Premises that is a manufacturing, warehousing or distribution centre in relation to medical supply, pharmaceutical supply and personal protective equipment supply facilities if it reduces each of its daily peak workforce capacity and daily total workforce capacity by at least 33 percent.
- (29) A **medical supply, pharmaceutical supply and personal protective equipment supply facility Work Premises** means the total of all medical

supply, pharmaceutical supply or protective personal equipment supply facilities operated by an employer. An employer may achieve the reduction specified in subclause (28) by reducing the number of workers in any of its medical supply, pharmaceutical supply and personal protective equipment supply facility Work Premises.

Example: if a medical supply distribution facility has a daily peak workforce capacity of 300 workers and daily total workforce capacity of 600 workers, then the employer must reduce its daily peak workforce capacity by 100 workers and its daily total workforce capacity by 200 workers. However, these reductions can be made across any part of the medical supply Work Premises, not just at the distribution facility.

- (30) Subclauses (28) and (29) do not apply to a **pharmaceutical warehouse**.
- (31) In relation to a Work Premises that is a chilled distribution facility in relation to medical supply, pharmaceutical supply and personal protective equipment supply facilities, an employer must ensure that all workers at the Work Premises wear a surgical face mask, unless the nature of a worker's work means that it creates a risk to their health and safety.

Note: surgical face masks may create a risk to health and safety in those parts of a chilled distribution facility where the temperature is below negative five degrees Celsius. If a surgical face mask cannot be worn, the employer is still required to ensure an employee uses a suitable fitted face covering, such as a cloth mask of three plies.

Construction sites

- (32) In relation to construction sites:
- (a) a **construction site** is a Work Premises at which civil works, building or construction activities take place;
 - (b) **critical and essential infrastructure** means:
 - (i) construction or maintenance (including, but not limited to, civil works, building or construction activities) of critical and essential infrastructure (whether privately or publicly funded) where the Victorian Government has deemed, and the Chief Health Officer has endorsed, that it is urgently required for the purposes of sustaining human health, safety and wellbeing, on a case by case basis; or
 - (ii) activities deemed by the Victorian Government from time to time as "State Critical Infrastructure Projects"; or
 - (iii) construction for the purposes of national security or defence;
 - (c) the requirements of the **Workplace Directions (No 7)** apply to Work Premises that are a construction site, including (but not limited to):
 - (i) subject to subclause (36), the **density quotient**;
 - (ii) the face coverings and cleaning requirements in the **Workplace Directions (No 7)**;

- (d) an employer in relation to a Work Premises that is a construction site must comply with the applicable worker reductions for the construction site, except in relation to:
 - (i) critical and essential infrastructure; or
 - (ii) critical repairs to any Work Premises where required for emergency or safety (as set out in the 'Permitted Work Premises' for the purposes of the **Restricted Activity Directions (Restricted Area) (No 13)** available at: www.dhhs.vic.gov.au/business-industry-restrictions-by-industry-covid-19 as amended from time to time by the Victorian Government);
- (e) an employer must limit movement of all workers (including, but not limited to, supervisors and on-site specialists) between multiple Work Premises that are construction sites, except in relation to:
 - (i) supervisors on **small-scale construction sites** who can move between multiple small-scale construction sites; or
 - (ii) **specialist contractors** who can move between up to 5 construction sites per week; or
 - (iii) specialists who provide safety services; or
 - (iv) those required to meet minimum statutory obligations or requirements (for example, auditors, building inspectors or surveyors).

Small-scale construction sites

- (33) A **small-scale construction site** is a construction site other than a **large-scale construction site** or an **early stage land development site**.
- (34) An employer must not operate a Work Premises that is a small-scale construction site with more than 5 workers (excluding the site supervisor) at any one time.

Early stage land development sites

- (35) An **early stage land development site** comprises all civil works undertaken on open air, large greenfield sites that are associated with, and preparatory to, construction of multiple individual residential dwellings or industrial or commercial development on that site (including, but not limited to, site remediation and site preparation works, construction of utilities and construction of roads, bridges, stormwater/flood management works and trunk infrastructure).
- (36) An employer may only operate a Work Premises that is an early stage land development site if there are 20 workers (or fewer) per hectare on the Work Premises at any one time.
- (37) For an early stage land development site that is:

- (a) a residential development, once subdivision occurs, the construction of a dwelling on that part of the early stage land development site will be considered a small-scale construction site; and
- (b) a large-scale residential development (for example, a retirement village) with a single entity responsible for construction, once construction of dwellings has commenced it will be considered a large-scale construction site,

for the purposes of these directions.

- (38) In relation to an early stage land development site that is an industrial or commercial development, once construction of a building, warehouse or physical structure has commenced it will be considered a large-scale construction site for the purposes of these directions.

Large-scale construction sites

- (39) A construction site is a **large-scale construction site** if it is:
 - (a) for construction of a building where a planning permit has been issued in relation to the site for a building that is greater than three storeys tall (excluding basement level(s)); or
 - (b) the site size is more than 1,500m² floor size (inclusive of all floors); or
 - (c) for construction of a premises that is predominantly for office use, or that is the internal fit-out of a retail premises; or
 - (d) for construction of a premises that is predominantly for industrial or large format retail use; or
 - (e) deemed to be so under subclause (37)(b) or (38).
- (40) The **baseline daily workforce** for a large-scale construction site is calculated based on the daily average number of workers on the large-scale construction site across the project lifecycle as derived from the large-scale construction site's resourcing plan as of 31 July 2020.
- (41) The project lifecycle commences from the date of on-site mobilisation and ends at handover.
- (42) An employer must not operate a large-scale construction site in excess of 85 percent of the baseline daily workforce or 15 workers, whichever is higher.

Retail facilities

- (43) An employer may only operate a Work Premises that is a retail facility:
 - (a) for the purposes of fulfilling online orders; and
 - (b) if it reduces each of its daily peak workforce capacity and daily total workforce capacity by 33 percent.
- (44) If there is any inconsistency between subclause (43) and the **Restricted Activity Directions (Restricted Areas) (No 13)** or the **Restricted Activity Directions (Non-Melbourne) (No 8)** (as applicable), subclause (43) is inoperative to the extent of the inconsistency.

Wholesale facilities

- (45) An employer may only operate a Work Premises that is a wholesale facility if it reduces its daily total workforce capacity by at least 33 percent.
- (46) Subclause (45) does not apply to a Work Premises that is a wholesale facility that is predominantly used for:
- (a) grocery, liquor and tobacco product wholesaling; or
 - (b) animal feed and supplies wholesaling; or
 - (c) pharmaceutical wholesaling; or
 - (d) safety products wholesaling; or
 - (e) cleaning supplies and disinfectants wholesaling; or
 - (f) medical and disability supplies wholesaling.

Note: the effect of subclause (46) is that there is no workforce capacity limit for the listed wholesale facilities.

Manufacturing

- (47) An employer may only operate a Work Premises that is a manufacturing facility that was closed under the Permitted Work Premises List as at 13 September 2020 if it reduces its daily total workforce capacity by at least 10 percent.

Note 1: subclause (47) does not apply in relation to medical supply, pharmaceutical supply and personal protective equipment supply facilities, which are dealt with under subclauses (28) to (31) (inclusive).

*Note 2: a Work Premises that is a manufacturing facility that was permitted to open under the Permitted Work Premises List as at 13 September 2020 is not required to comply with this subclause (47) and may continue operate in line with any applicable requirements in any **Directions currently in force**.*

Capacity requirements variation

- (48) Where there is a risk to food supply, the Chief Executive Officer of Agriculture Victoria or the Deputy Secretary of the Department of Jobs, Precincts and Regions accountable for food supply and logistics may recommend a variation to the daily peak workforce capacity, daily total workforce capacity, weekly peak workforce capacity or weekly total workforce capacity requirements for any Additional Obligation Industry Work Premises set out in these directions, including any conditions on the variation, to the Chief Health Officer.
- (49) Upon considering a recommendation under subclause (48), the Chief Health Officer may approve the recommendation and communicate that approval to the relevant employer(s).

Horticulture Work Premises using seasonal workers for seasonal horticultural work

- (50) An employer may only operate a seasonal Work Premises using seasonal workers for seasonal horticultural work if it complies with subclauses (51) and (53) to (66) (inclusive).

- (51) An employer must not allow a seasonal worker to commence seasonal horticultural work (except where subclause (56) applies) unless:
- (a) the seasonal worker has provided the employer with a written declaration as to whether or not the worker has been in the Restricted Area in the preceding 14 days; and
 - (b) If the seasonal worker has been in the Restricted Area in the preceding 14 days, the seasonal worker must have:
 - (i) been tested for 2019-nCoV;
 - (ii) received a negative test result for 2019-nCoV in the preceding four days prior to the date that the seasonal worker is expected to commence seasonal horticultural work; and
 - (iii) provided evidence of the negative test result to the employer prior to commencing seasonal horticultural work.

Note: A paper or electronic notification confirming the negative test result from a testing provider is sufficient evidence to be provided/sighted.

Note: this clause (51) does not apply to workers carrying out:

- (a) agricultural work or services which occur on an on-going basis;
- (b) emergency repairs and maintenance;
- (c) assurance activities related to the farm business/host meeting their obligations;
- or
- (d) transportation of supplies where workers attend only for the time reasonably necessary to deliver the supplies.

- (52) A labour hire provider providing seasonal workers to an employer for seasonal horticultural work must not offer the seasonal worker for seasonal horticultural work (except where subclause (56) applies) unless:
- (a) the seasonal worker has provided the labour hire provider with a written declaration as to whether or not the worker has been in the Restricted Area in the preceding 14 days; and; and
 - (b) If the seasonal worker has been in the Restricted Area in the preceding 14 days, the seasonal worker must have:
 - (i) been tested for 2019-nCoV;
 - (ii) received a negative test result for 2019-nCoV in the preceding four days prior to the date that the seasonal worker is expected to commence seasonal horticultural work; and
 - (iii) provided evidence of the negative test result to the labour hire provider prior to commencing seasonal horticultural work.

Note: A paper or electronic notification confirming the negative test result from a testing provider is sufficient evidence to be provided/sighted.

Note: this clause (51) does not apply to workers carrying out:

- (a) agricultural work or services which occur on an on-going basis;
- (b) emergency repairs and maintenance;

- (c) *assurance activities related to the farm business/host meeting their obligations;*
or
 - (d) *transportation of supplies where workers attend only for the time reasonably necessary to deliver the supplies.*
- (53) An employer may meet its obligations under subclause (51) by obtaining that information from a labour hire provider who has obtained that information by meeting its obligations under subclause (52).
- (54) The employer and the labour hire provider must keep a written record of the date of each negative test result that it has sighted in relation to a seasonal worker under subclause (51) and (52) respectively.
- (55) The employer must keep a daily written record of the name, contact number and work location of every seasonal worker engaged to perform seasonal horticultural work.
- (56) In relation to a seasonal Work Premises where seasonal workers commute daily to the Work Premises from the Restricted Area, an employer must:
- (a) each day ask each seasonal worker, and each seasonal worker must declare, if they have travelled from the Restricted Area that day on that day and the employer must keep a daily record of these declarations;
 - (b) carry out surveillance testing on its seasonal workers for 2019-nCoV at a Work Premises in accordance with the requirements of the Department of Health and Human Services; and
 - (c) keep written records of surveillance testing of seasonal workers for 2019-nCoV and have them available for inspection by an Authorised Officer upon request.
- (57) In collecting the information outlined in subclause subclauses (54), (55) and (56), an employer must:
- (a) use reasonable endeavours to protect the personal information from use or disclosure, other than in accordance with a request made by an Authorised Officer; and
 - (b) destroy the information as soon as reasonably practicable following 28 days after receipt of the information by the employer, unless another statutory requirement permits or requires the personal information to be retained.
- (58) The employer must arrange operations at the Work Premises so as to have seasonal workers working consistently with the same group of other workers where reasonably practicable, including (but not limited to):
- (a) developing separate shifts in a way that minimises physical interactions between groups of workers attending different shifts;
 - (b) separate workers into work areas;
 - (c) dividing work areas up further into separate teams;
 - (d) providing suitable separate break areas for the separate teams including, to the extent possible, outdoor break areas with shade;

- (e) where workers are from the same household, ensuring they work in the same shift and work area.

Note: To the extent it is reasonably practicable, there should be no mixing of the worker 'bubbles' on site. Workers within a bubble should work and take breaks together. In addition, worker bubbles should, to the extent that is reasonably practicable, be maintained with respect to accommodation and transport.

- (59) In addition to the requirements of the Seasonal Horticultural Worker COVIDSafe Plan, the employer must record on a daily basis the roster of workers, including the work areas, work teams and breaks taken for each worker bubble.
- (60) The employer must provide training to seasonal workers (including, but not limited to, an induction for all workers commencing at, or returning to, the Work Premises) that covers:
 - (a) good hygiene practices; and
 - (b) advising workers not to attend the Work Premises when unwell; and
 - (c) compliance with the requirements of subclause (58).
- (61) The employer must carry out cleaning of the seasonal Work Premises each evening and provide:
 - (a) clean water and soap for washing hands; and
 - (b) well-maintained toilet facilitiesfor workers, in a location or locations that are reasonably adjacent to work areas and, as far as is practicable, separate from the employer's premises or farm homestead.
- (62) In relation to seasonal Work Premises, an employer must:
 - (a) make available an adequate supply of **face coverings** free of charge to seasonal workers employed or engaged at the seasonal Work Premises; and
 - (b) ensure that all seasonal workers at the seasonal Work Premises wear a **face covering** at all times (other than to eat, drink and take medications), unless the nature of a seasonal worker's work means that it creates a risk to their health and safety or any of the other circumstances set out in section 7(2) of the **Workplace Directions (No 7)** apply.
- (63) Where the employer or labour hire provider provides accommodation to a seasonal worker they must ensure that the arrangements in relation to **seasonal worker accommodation** are included in the attachment to their Seasonal Horticultural Worker COVIDSafe Plan in accordance with the requirements of subclause (64).
- (64) Where the employer or labour hire provider provides seasonal worker accommodation to a seasonal worker, they must specify in the attachment to their Seasonal Horticultural Worker COVIDSafe Plan the arrangements in relation to seasonal worker accommodation provided by the employer or labour hire provider, with respect to:

- (a) density;
- (b) sanitation;
- (c) use of communal facilities;
- (d) regular cleaning; and
- (e) the provision of alternative facilities where a resident is required to self-isolate as a confirmed case or close contact under the **Diagnosed Persons and Close Contacts Directions (No 12)**,

having regard to guidance produced by Department of Jobs, Precincts and Regions and Department of Health and Human Services.

- (65) Where the employer or labour hire provider provides **seasonal worker transport** (whether that transport is owned or leased) to a seasonal worker they must ensure that arrangements in relation to the seasonal worker transport included in the attachment to their Seasonal Horticultural Worker COVIDSafe plan in accordance with the requirements of subclause (66).
- (66) Where the employer or labour hire provider provides seasonal worker transport to a seasonal worker, they must specify in the attachment to their Seasonal Horticultural Worker COVIDSafe Plan the arrangements in relation to seasonal worker transport provided by the employer or labour hire provider, with respect to:
 - (a) distancing;
 - (b) wearing of masks;
 - (c) ventilation; and
 - (d) regular cleaning,

having regard to guidance produced by Department of Jobs, Precincts and Regions and Department of Health and Human Services.

Care facilities

- (67) An employer in relation to a Work Premises that is a care facility in Victoria must require **care facility workers** in relation to the care facility to declare in writing at the start of each shift that the worker:
 - (a) is free of 2019-nCoV Symptoms; and
 - (b) has, in the preceding 14 days, not been in contact with a confirmed case (except in the course of their duties while wearing appropriate personal protective equipment); and
 - (c) is not currently required to self-isolate or self-quarantine under the **Diagnosed Persons and Close Contacts Directions (No 12)**; and
- (68) An employer in relation to a Work Premises that is a care facility in Victoria must:
 - (a) carry out surveillance testing for 2019-nCoV on its **employees** and contractors in relation to the care facility where directed by the Chief Health Officer or their delegate, and in accordance with the requirements of the Department of Health and Human Services; and

Note: the Department of Health and Human Services may set different surveillance testing requirements for different care facilities (e.g. based on the type of facility, or location), depending on associated levels of risk.

- (b) keep records of surveillance testing of employees and contractors for 2019-nCoV.
- (69) Despite clause 5(1)(b) of the **Care Facilities Directions (No 14)**, an employer in relation to a Work Premises that is a care facility in the Restricted Area must not permit an employee or contractor to enter the care facility where:
- (a) the employee or contractor has, on or after 4 October 2020, worked at another care facility; and
 - (b) at the time the employee or contractor worked at that other care facility, a confirmed case was present at that other facility,

unless:

- (c) at least 14 days have elapsed since the last time the employee or contractor worked at that other facility while a confirmed case was present; and
- (d) within four days prior to the date that the employee or contractor is expected to work at the care facility, the employee or contractor has:
 - (i) undertaken a test for 2019-nCoV;
 - (ii) received confirmation that the results of that test were negative; and
 - (iii) not worked at another care facility since that test; and
- (e) the employee or contractor has provided evidence of the negative test result to the employer prior to commencing work at that care facility.

Note: providing the employer with hardcopy or electronic notification confirming the negative test result from a testing provider is sufficient evidence.

Note: the effect of subclause (69) is that, in the event of an outbreak of 2019-nCoV at a care facility, an employee or contractor present during the outbreak must only work at that facility, and cannot be permitted to work at other care facility. Such employees or contractors must wait a minimum period of 14 days and test negative for 2019-nCoV, before moving from that care facility to commence work at another care facility.

- (70) Despite clause 5(1)(b) of the **Care Facilities Directions (No 14)**, an employer in relation to a Work Premises that is a care facility in the Relevant Area must not permit an employee or contractor to enter the care facility where:
- (a) the employee or contractor has, following the commencement of these directions:
 - (i) worked at a care facility in the Restricted Area; or

- (ii) worked at another care facility in the Relevant Area and at the time the employee or contractor worked at that other care facility, a confirmed case was present at that other facility,

unless:

- (b) within four days prior to the date that the employee or contractor is expected to work at the care facility, the employee or contractor has:
 - (i) undertaken a test for 2019-nCoV;
 - (ii) received confirmation that the results of that test were negative; and
 - (iii) not worked at another care facility since that test; and
- (c) the employee or contractor has provided evidence of the negative test result to the employer prior to commencing work at that care facility.

Note: providing the employer with hardcopy or electronic notification confirming the negative test result from a testing provider is sufficient evidence.

(71) An employer in relation to a Work Premises that is a care facility in Victoria must comply with cleaning and personal protective equipment requirements in accordance with the requirements of the Department of Health and Human Services.

(72) The Chief Health Officer may grant an exemption in writing to the requirements of subclause (69) and (70).

Note: an exemption may only be granted where it is necessary to ensure that residents are provided with a reasonable standard of care.

7A Relationship with other directions

- (1) 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.
- (2) If there is any inconsistency between these directions and a direction or other requirement contained in the **Workplace Directions (No 7)**, the **Workplace Directions (No 7)** are inoperative to the extent of the inconsistency.

8 Other definitions

For the purposes of these directions:

- (1) **2019-nCoV Symptoms** has the same meaning as in the **Workplace Directions (No 7)**;
- (2) **abattoir** has the meaning under the PrimeSafe licence categories “abattoirs (domestic)” and “abattoirs (exports)”;
- (3) **Additional Obligation Industries** has the meaning in clause 5(1);
- (4) **Authorised Officer** has the same meaning as in the **PHW Act**;

- (5) **baseline daily workforce** has the meaning in clause 7(40);
- (6) **care facility** has the same meaning as in the **Care Facilities Directions (No 14)**;
- (7) **care facility worker** has the same meaning as “worker” in clause 6(1) of the **Care Facilities Directions (No 14)**;
- (8) **Chief Veterinary Officer** means the chief veterinary officer of the Department of Jobs, Precincts and Regions;
- (9) **cleaned** has the same meaning as in the **Workplace Directions (No 7)**;
- (10) **cleaning requirement** has the same meaning as in the **Workplace Directions (No 7)**;
- (11) **confirmed case** means a worker diagnosed with 2019-nCoV;
- (12) **construction site** has the meaning in clause 7(32)(a);
- (13) **COVID Marshal** has the meaning in clause 7(4)(b);
- (14) **critical and essential infrastructure** has the meaning in clause 7(32)(b);
- (15) **daily peak workforce capacity** has the meaning in clause 5(6);
- (16) **daily total workforce capacity** has the meaning in clause 5(7);
- (17) **density quotient** has the same meaning as in the **Workplace Directions (No 7)**;
- (18) **Direction and Detention Notice** means a notice given to a person requiring the person to be detained for a specified period;
- (19) **Directions currently in force** has the same meaning as in the **Area Directions (No 9)**;
- (20) **early stage land development site** has the meaning in clause 7(35);
- (21) **employee** includes a person who is self-employed;
- (22) **employer** means a person who owns, operates or controls a **Work Premises** and includes a person who is self-employed or a sole-trader;
- (23) **face covering** has the same meaning as in the **Workplace Directions (No 7)**;
- (24) **High Risk COVIDSafe Plan** has the meaning in clause 0;
- (25) **inspector** has the same meaning as in the **OHS Act**;
- (26) **labour hire provider** means a person who arranges, engages, supplies, subcontracts or otherwise provides seasonal workers (as employees, independent contractors or otherwise) for seasonal horticultural work (and includes a person who is self-employed or a sole trader);
- (27) **large-scale construction site** has the meaning in clause 7(39);
- (28) **manufacturing facility** means a facility mainly engaged in the physical or chemical transformation of materials, substances or components into new products (excluding agriculture and construction);

- (29) **meat processing facility** has the meaning under the PrimeSafe licence category “further meat processing facilities”;
- (30) **medical supply, pharmaceutical supply, and personal protective equipment supply facility** means a facility that manufactures pharmaceutical and blood products, medical equipment, consumables and **personal protective equipment (PPE)**, including the manufacturing and supply of cloth masks and required raw materials;
- (31) **medical supply, pharmaceutical supply and personal protective equipment supply facility Work Premises** has the meaning in clause 7(29);
- (32) **OHS Act** means the **Occupational Health and Safety Act 2004**;
- (33) **outbreak** means:
- (a) a single **confirmed case** of 2019-nCoV in a resident, staff member or frequent attendee of a residential aged care facility; or
 - (b) two or more epidemiologically linked cases outside of a household with symptom onset within 14 days;
- Note: transmission within one household does not constitute an outbreak but will become part of an outbreak response if linked to a high priority setting. In some circumstances, the Department of Health and Human Services may identify other settings that are sensitive and where a single confirmed case will trigger an outbreak response. Relevant parties will be informed if this occurs. Determining whether a person is a frequent or infrequent visitor may be based on frequency of visits, time spent in the setting, and number of contacts within the setting.*
- (34) **perishable food Work Premises** has the meaning in clause 7(25)(b);
- (35) **personal protective equipment** has the same meaning as in the **Occupational Health and Safety Regulations 2017**;
- (36) **pharmaceutical warehouse** means a warehouse that is licensed under the **Poisons and Therapeutic Goods Act 1966** of New South Wales for the supply of medicines listed under Schedules 2, 3, 4, and 8 of the Poisons List (as defined in that Act), or a warehouse that distributes medical devices and consumables that are registered on the Australian Register of Therapeutic Goods;
- (37) **PHW Act** means the **Public Health and Wellbeing Act 2008**;
- (38) **poultry processing facility** has the meaning under the PrimeSafe licence category “poultry meat processing facilities”;
- (39) **premises** has the same meaning as in the **PHW Act**;
- (40) **reasonably practicable** is to have its ordinary and common sense meaning;
- (41) **records requirement** has the same meaning as in the **Workplace Directions (No 7)**;
- (42) **Relevant Area** means the area of Victoria outside the **Restricted Area**;
- (43) **Restricted Area** has the same meaning as in the **Area Directions (No 9)**;

- (44) **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,
- but does not include a **retail shopping centre**;
- (45) **retail shopping centre** has the same meaning as in the **Retail Leases Act 2003**;
- (46) **seafood processing facility** has the meaning under the PrimeSafe licence category “seafood processing facilities”;
- (47) **self-isolate** has the same meaning as in the **Diagnosed Persons and Close Contacts Directions (No 12)**;
- (48) **self-quarantine** has the same meaning as in the **Diagnosed Persons and Close Contacts Directions (No 12)**;
- (49) **seasonal horticultural work** means work that is seasonal in nature in the horticulture (ie production of fruit and vegetables) sector of the agriculture industry, including the picking, packing and harvesting of seasonal produce, but does not include:
- (a) the production of nuts, wine grapes and olives; or
 - (b) storage and distribution activities that occur post production;
- (50) **seasonal worker** means a worker temporarily employed or engaged to perform seasonal horticultural work at seasonal work premises;
- (51) **seasonal worker accommodation** means any on-farm or off-farm accommodation provided for seasonal workers on a temporary basis by the employer or labour hire provider where the number of seasonal workers is greater than two and the accommodation is not the seasonal worker’s usual place of residence;
- (52) **seasonal worker transport** means any transport provided by the employer or labour hire provider used for transporting seasonal workers;
- (53) **seasonal Work Premises** means a farm or workplace where seasonal horticultural work is undertaken;
- (54) **small-scale construction site** has the meaning in clause 7(33);
- (55) **specialist contractor** means:
- (a) Asphalters;
 - (b) Carpenters;
 - (c) Plasterers;
 - (d) Carpet layers;
 - (e) Sprinkler fitters;
 - (f) Solar installers;
 - (g) Security system installers;
 - (h) Mobile Cranes – Operators and dogmen;

- (i) Electricians;
- (j) Plumbers, including roof plumbers;
- (k) Tile layers, including roof tilers;
- (l) Concreters;
- (m) Gold Class riggers;
- (n) Steel fixers;
- (o) Post Tensioners;
- (p) Vertical access riggers;
- (q) Welders;
- (r) Precast installers;
- (s) Caulkers;
- (t) Floor layers;
- (u) Window and glass installers/glaziers;
- (v) Engineers;
- (w) Floor installers;
- (x) Insulation installers;
- (y) Brick layers;
- (z) Joiners;
- (aa) Painters;
- (bb) Appliance installers;
- (cc) Water proofers;
- (dd) Cladding installers;
- (ee) Termite specialists;
- (ff) Mechanics who install and repair plant;
- (gg) Landscape architects;
- (hh) Renderers;
- (ii) Cabinet installers;
- (jj) Shower screen/mirror installers;
- (kk) Retaining wall specialists;
- (ll) Traffic engineers;
- (mm) Geotechnical specialists;
- (nn) Heritage and cultural heritage specialists;
- (oo) Sewer contractors;
- (pp) Earthworks and drainage specialists;
- (qq) Telecommunications installers;

- (rr) Gas contractors;
 - (ss) Flora and fauna specialists;
 - (tt) Garage door installers;
 - (uu) Fencers;
 - (vv) Set out specialists;
 - (ww) Window shutters and blind installers;
- (56) **supermarket** has the same meaning as “supermarket business” in the **Food Act 1984**, and includes supermarket distribution and warehousing (including in relation to liquor products) but excludes retail facilities;
- (57) **supermarket Work Premises** has the meaning in clause 7(25)(a);
- (58) **vehicle** has the same meaning as in the **PHW Act**;
- (59) **weekly peak workforce capacity** has the meaning in clause 7(11);
- (60) **weekly total workforce capacity** has the meaning in clause 7(12);
- (61) **wholesale facility** means a facility used for selling and distributing bulk quantities of goods, including related functions such as storage, sorting, packing and bulk distribution;
- (62) **Work Premises** means the **premises** of an **employer** in which work is undertaken, including any **vehicle** whilst being used for work purposes, and including a **seasonal Work Premises**;
- (63) **worker** includes **employees**, labour hire, subcontractors (and their employees), volunteers and any other person engaged or permitted by an employer to perform work.

9 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 \$9,913 and 300 penalty units equals \$49,566.

- (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:

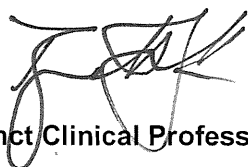
Compliance with direction or other requirement

- (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 and 600 penalty units equals \$99,132.

- (2) A person is not guilty of an offence against subsection (1) if the person had a reasonable excuse for refusing or failing to comply with the direction or requirement.
- (3) A person who fails to comply with these directions is liable for an on-the-spot fine of:
- (a) 10 penalty units (\$1,652) in the case of a natural person; or
- (b) 60 penalty units (\$9,913) 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).



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.

18 October 2020