

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

Border Crossing Permit Scheme Directions

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)(b) and (d) of the **Public Health and Wellbeing Act 2008 (Vic) (PHW Act)**:

1 Preamble

- (1) The purpose of these directions is to:
 - (a) to prevent **prohibited persons** who have visited or are from a **red zone** and/or are required to self-quarantine in the State of South Australia from entering Victoria; and
 - (b) require **restricted persons** who have visited or are from:
 - (i) an **orange zone**; or
 - (ii) a **green zone**,in the State of South Australia to carry a **permit** when entering Victoria, in order to limit the spread of SARS-CoV-2.
- (2) These directions must be read together with the **Directions currently in force**.
- (3) These directions replace the **Community Transmission Zone Directions**.

2 Citation

These directions may be referred to as the **Border Crossing Permit Scheme Directions**.

3 Commencement and revocation

- (1) The **Community Transmission Zone Directions** are revoked at 11:59:00pm on 21 November 2020.
- (2) These directions commence at 11:59:00pm on 21 November 2020.

4 Restrictions on persons entering Victoria

People who have visited or are from a red zone

- (1) A prohibited person must not enter Victoria unless the Chief Health Officer or Deputy Chief Health Officer has granted an exemption under clause 6.

People who have visited or are from an orange or green zone

- (2) A restricted person may enter Victoria if the person carries, and presents on request to an **authorised officer**, a Victoria Police Officer or a Protective Services Officer:

- (a) a permit for that person including:
- (i) the person's full name; and
 - (ii) the person's contact phone number; and
 - (iii) the full names of any person under the age of 18, or other dependants for whom the person is a parent, guardian or carer, who are travelling with the person; and
 - (iv) the address from which the person is departing when entering Victoria; and
 - (v) the destination the person will be visiting while in Victoria; and
 - (vi) the date of entry into Victoria; and
 - (vii) if the person has visited, been in, or travelled through, an orange zone in the 14 days prior to the entry; and
 - (viii) if applicable, the planned date of departure from Victoria; and
- an attestation by that person stating that (as at the date of attestation) the person (and any person under the age of 18 or other dependant travelling with the person):
- (ix) is not a **diagnosed person** or someone who has been in close contact with a diagnosed person; and
 - (x) is not experiencing SARS-CoV-2 symptoms; and
 - (xi) is not a prohibited person who has visited, been in or travelled through a red zone and/or required to self-quarantine or self-isolate in the State of South Australia in the 14 days prior to entry; and
 - (xii) the information in the permit and attestation is true and correct;
- or
- (b) a **South Australian Border Permit** or proof that they are a **Cross Border Community Member**, and

photographic personal identification including the address where the person ordinarily resides.

Note: if a restricted person has visited, been in, or travelled through an orange zone in the preceding 14 days, they are strongly encouraged to be tested for SARS-CoV-2 as soon as possible upon entering Victoria.

- (3) Despite subclause (2), a restricted person may enter Victoria without a permit:
 - (a) to provide or receive emergency medical care or emergency services; or
 - (b) to escape harm or the risk of harm, including harm relating to family violence or violence of another person; or
 - (c) if they are a **school** student travelling on a bus; or
 - (d) where the restricted person remains on the same premises where that premises is both in the State of South Australia and the State of Victoria.
- (4) A restricted person who has applied for a permit under subclause (2) must not visit, or travel through, a red zone, and/or be required to self-quarantine or self-isolate in the State of South Australia, between applying for the permit and entering Victoria.
- (5) For the avoidance of doubt, whenever a prohibited person or restricted person is in the State of Victoria, they are subject to the Directions currently in force.

5 Applications for a permit

- (1) A restricted person may apply for a permit using a digital system provided by the **Service Victoria CEO** and other parts of the Victorian Government.
- (2) An application must contain all information reasonably required by the **Department** from time to time, for the purposes of protecting public health.
- (3) The Service Victoria CEO:
 - (a) may deliver a permit to a restricted person where the person makes an application under subclause (1) and the application complies with the requirements under subclause (2); and
 - (b) must provide a copy of the permit to the Department; and
 - (c) may provide any information contained in an application to the Department.
- (4) Each permit is only valid for seven days from the date of entry into Victoria.
- (5) A person must not give information, or make a statement, in an application for a permit that is false or misleading in a material particular.

6 Exemption power

- (1) A person is not required to comply with a requirement of these directions if the person is granted an exemption from that requirement under subclause (2).
- (2) The Chief Health Officer or Deputy Chief Health Officer may exempt a person or a group of persons, from any or all requirements contained in these directions, if satisfied that an exemption is appropriate, having regard to the:

- (a) need to protect public health; and
 - (b) principles in sections 5 to 10 of the PHW Act, as appropriate.
- (3) In circumstances where a prohibited person is seeking an exemption, before granting any exemption the Chief Health Officer or Deputy Chief Health Officer must consider:
- (a) if the prohibited person is:
 - (i) lawfully permitted to leave the State of South Australia in accordance with the laws in force in that jurisdiction; and
 - (ii) seeking to enter Victoria for the purposes of:
 - (A) attending a funeral or end of life event; or
 - (B) providing or receiving emergency medical treatment; or
 - (C) escaping harm or the risk of harm, including harm relating to family violence or violence of another person; or
 - (D) an emergency relocation; and
 - (b) requesting, and if they do so the prohibited person must provide, any documentary evidence of:
 - (i) any test results or other medical information in relation to that person; or
 - (ii) any direction or permission to that person from the State of South Australia not to self-quarantine,

and the Chief Health Officer or Deputy Chief Health Officer must consider any such documentary evidence.
- (4) An exemption under subclause (2) must:
- (a) be given, in writing, to the person the subject of the exemption; and
 - (b) specify the requirement or requirements that the person need not comply with.
- (5) An exemption granted to a person under this clause does not prevent an authorised officer from exercising an **emergency power** to give the person a different direction or impose a different requirement on the person.

7 Definitions

In these directions:

- (1) **authorised officer** has the same meaning as in the PHW Act;
- (2) **Cross Border Community Member** has the meaning under clause 5 of Schedule 1 of the **Emergency Management (Cross Border Travel No 18) (COVID-19) Direction 2020** made under the **Emergency Management Act 2004** of South Australia;
- (3) **diagnosed person** means a person who at any time between midnight on 1 November 2020 and 11:59:00pm on 6 December 2020 has been informed that they have been diagnosed with SARS-CoV-2;

- (4) **Directions currently in force** has the same meaning as in the **Stay Safe Directions (Victoria)**;
- (5) **emergency powers** has the same meaning as in the PHW Act;
- (6) **green zone** means any part of the State of South Australia other than the **red zone** or **orange zone**;
- (7) **orange zone** means any location where people reside or have visited during identified times that have been assessed as a medium risk for SARS-CoV-2 transmission, as detailed on the Department of Health and Human Services' website available at: www.coronavirus.vic.gov.au/south-australian-border-permit, as amended from time to time by the Victorian Government;
- (8) **permit** means the written notice (digital or otherwise) provided under clause 5;
- (9) **prohibited person** means a **restricted person** who has visited, been in or travelled through a **red zone**, and/or required to self-quarantine by the State of South Australia, in the 14 days prior to the entry, or attempted entry, into Victoria;
- (10) **red zone** means any location where people reside or have visited during identified times that have been assessed as high risk for SARS-CoV-2 transmission and required to self-quarantine or self-isolate for 14 days, as detailed on the Department of Health and Human Services' website available at: www.coronavirus.vic.gov.au/south-australian-border-permit, as amended from time to time by the Victorian Government;
- (11) **restricted person** means a person who has visited, been in, or travelled through, the State of South Australia in the 14 days prior to the entry, or attempted entry, into Victoria;
- (12) **school** means a registered school as defined in the **Education and Training Reform Act 2006**;
- (13) **Service Victoria CEO** has the same meaning as in the **Service Victoria Act 2018**;
- (14) **South Australian Border Permit** means any document issued by the State of South Australia to, or proof that a person is and is permitted to enter Victoria as, a **Cross Border Community Member**.

8 Penalties

- (1) Section 210 of the PHW Act provides:

False or misleading information

- (1) A person must not—
 - (a) give information that is false or misleading in a material particular; or
 - (b) make a statement that is false or misleading in a material particular; or
 - (c) produce a document that is false or misleading in a material particular—
to the Secretary, a Council, the Chief Health Officer or an authorised officer under this Act or the regulations without indicating the respect in which it is false or misleading and, if practicable, providing correct information.

Penalty: In the case of a natural person, 60 penalty units;
In the case of a body corporate, 300 penalty units.

Note: currently, 60 penalty units equals \$9,912.20 and 300 penalty units equals \$49,466.00.

- (2) A person must not make an entry in a document required to be kept by this Act or the regulations that is false or misleading.

Penalty: In the case of a natural person, 60 penalty units;
In the case of a body corporate, 300 penalty units.

Note: currently, 60 penalty units equals \$9,912.20 and 300 penalty units equals \$49,466.00.

- (3) In a proceeding for an offence against subsection (1) or (2) it is a defence to the charge for the accused to prove that at the time at which the offence is alleged to have been committed, the accused believed on reasonable grounds that the information, statement or document was true or was not misleading.

- (2) Section 203 of the PHW Act provides:

Compliance with direction or other requirement

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

Penalty: In the case of a natural person, 120 penalty units;
In the case of a body corporate, 600 penalty units.


Note: currently, 120 penalty units equals \$19,826.40 and 600 penalty units equals \$99,132.00.

- (2) A person is not guilty of an offence against subsection (1) if the person had a reasonable excuse for refusing or failing to comply with the direction or requirement.

- (3) A person who fails to comply with these directions is liable for an on-the-spot fine of:

- (a) \$1,652 in the case of a natural person; or
(b) \$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.

21 November 2020