

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

## Stay Safe Directions (Victoria) (No 2)

*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**):

### PART 1 — PRELIMINARY

#### 1 Preamble

- (1) The purpose of these directions is to address the serious public health risk posed to Victoria by severe acute respiratory syndrome coronavirus 2 (**SARS-CoV-2**).
- (2) These directions require everyone who ordinarily resides in the State of Victoria to:
  - (a) wear **face coverings**; and
  - (b) limit interactions with others by restricting gatherings.
- (3) These directions must be read together with the **Directions currently in force**.
- (4) These directions replace the **Stay Safe Directions (Victoria)** to ease the requirements to wear face coverings and the restrictions on private and public gatherings.

#### 2 Citation

These directions may be referred to as the **Stay Safe Directions (Victoria) (No 2)**.

#### 3 Revocation

The **Stay Safe Directions (Victoria)** are revoked at 11:59:00pm on 22 November 2020.

#### 4 Stay safe period

For the purposes of these directions, the **stay safe period** is the period beginning at 11:59:00pm on 22 November 2020 and ending at 11:59:00pm on 6 December 2020.

## PART 2 — STAY SAFE

### 5 Direction — staying safe while leaving the home

#### *Leaving the home*

- (1) A person who ordinarily resides in the State of Victoria during the stay safe period may leave the **premises** where the person ordinarily resides for any reason subject to subclause (2).
- (2) When leaving their premises, a person:
  - (a) must comply with the face covering requirements in subclauses (7) and (8); and
  - (b) if leaving the premises where they ordinarily reside for work, must do so in accordance with clause 6 (**work**); and
  - (c) must comply with the restrictions on gatherings in clause 7 (**gatherings**); and
  - (d) must comply with the Directions currently in force, including (without limitation) by:
    - (i) not engaging in an activity that is prohibited under the **Restricted Activity Directions (Victoria) (No 2)**; and
    - (ii) only engaging in an activity permitted under the **Restricted Activity Directions (Victoria) (No 2)** in accordance with any requirements set out in those directions.

*Note 1: a person should take reasonable steps to maintain a distance of 1.5 metres from all other persons (except those people with whom they ordinarily reside) when leaving their premises, and should practise hand hygiene in accordance with the Department of Health and Human Services' guidelines as updated from time to time, available at: [www.dhhs.vic.gov.au/staying-safe-covid-19](http://www.dhhs.vic.gov.au/staying-safe-covid-19).*

*Note 2: if a person experiences a temperature higher than 37.5°C or symptoms of respiratory infection, they are strongly encouraged to get a test for SARS-CoV-2 and remain at their ordinary place of residence until they obtain their test result. If they are diagnosed with SARS-CoV-2, they must self-isolate in accordance with the **Diagnosed Persons and Close Contacts Directions (No 13)**.*

#### *Ordinary place of residence*

- (3) Subject to subclause (4), subclause (1) does not apply to a person at any time during the stay safe period when the person:
  - (a) no longer has an ordinary place of residence in the State of Victoria; or
  - (b) has an ordinary place of residence in the State of Victoria, but that place is temporarily unavailable or is unavailable because of a risk of harm (including harm relating to family violence or violence of another person at the premises).
- (4) If a suitable premises is made available for a person identified in subclause (3) to reside at for the stay safe period (or part thereof), that

premises is taken to be the person's ordinary place of residence for the stay safe period (or part thereof).

- (5) If a person's ordinary place of residence is outside Victoria, the premises where that person is temporarily residing in Victoria during the stay safe period (or part thereof) is taken to be the person's ordinary place of residence for the period (or part thereof).

*Note: a person who is visiting and staying in Victoria, whether from overseas or interstate, is taken to be temporarily residing in Victoria. Where that person is staying in Victoria, these directions apply to them.*

- (6) If, during the stay safe period, a person moves from the premises at which they ordinarily reside to a new premises, the new premises is taken to be the premises at which the person ordinarily resides from midnight on the day that the person moves.

#### *Face covering requirements*

- (7) A person may only leave the premises under subclause (1) if they:
- (a) carry a face covering at all times, except where subclause (8)(a), (c), (d) and (e) applies; and
  - (b) wear a face covering while in:
    - (i) an **indoor space**, other than in the premises where the person ordinarily resides, while visiting a person with whom they are in an intimate personal relationship in accordance with clause 7(2)(g) or while visiting another premises for a social gathering in accordance with clause 7(2)(h); and
    - (ii) an **outdoor space** at all times when they cannot maintain a distance of 1.5 metres from all other persons (except those people with whom they ordinarily reside or with whom they are in an intimate personal relationship),  
except where subclause (8) applies; and
  - (c) wear a face covering where required to do so in accordance with any other Directions currently in force.

*Note: face shields on their own do not meet the face covering requirements. For further information, please refer to the Department of Health and Human Services' guidelines as updated from time to time, available at: [www.dhhs.vic.gov.au/face-masks-vic-covid-19](http://www.dhhs.vic.gov.au/face-masks-vic-covid-19).*

- (8) Subclause (7)(b) and (c) do not apply if:
- (a) the person is an infant or a child under the age of 12 years; or
  - (b) the person is a student while onsite at a primary **school** or outside school hours care; or
  - (c) the person is a **prisoner** in a **prison** (either in their cell or common areas), subject to any policies of that prison; or

- (d) the person is detained in a **remand centre, youth residential centre** or **youth justice centre** (either in their room or common areas), subject to any policies of that centre; or
- (e) the person has a physical or mental health illness or condition, or disability, which makes wearing a face covering unsuitable; or  
*Examples: persons who have obstructed breathing, a serious skin condition on their face, an intellectual disability, a mental health illness, or who have experienced trauma.*
- (f) the person is communicating with a person who is deaf or hard of hearing and visibility of the mouth is essential for communication; or
- (g) the nature of a person's work or education means that wearing a face covering creates a risk to their health and safety; or
- (h) the nature of a person's work or education means that clear enunciation or visibility of the mouth is essential; or  
*Examples: teaching, lecturing, broadcasting.*
- (i) the person is working by themselves in an enclosed indoor space (unless and until another person enters that indoor space); or  
*Example: a person working by themselves in an office.*
- (j) the person is one of two persons being married while in the process of being married; or
- (k) the person is a professional sportsperson when training or competing; or
- (l) the person is engaged in any strenuous physical exercise; or  
*Examples: jogging, running.*
- (m) the person is travelling in a **vehicle** by themselves or where each other person in the vehicle ordinarily resides at the same premises; or
- (n) the person is riding a bicycle or motorcycle; or
- (o) the person is consuming food, drink or medicine; or
- (p) the person is smoking or vaping (including e-cigarettes) while stationary; or
- (q) the person is undergoing dental or medical care or treatment to the extent that such care or treatment requires that no face covering be worn; or
- (r) the person is receiving a service from a facility which is permitted to operate under, and is operating in accordance with, the **Restricted Activity Directions (Victoria) (No 2)**, to the extent that it is not reasonably practicable to receive that service wearing a face covering; or  
*Example: when having your photo taken by a professional **photographer**.*
- (s) the person is asked to remove the face covering to ascertain identity; or

*Examples: a person may be asked by police, security, bank or post office staff to remove a face covering to ascertain identity or when purchasing alcohol or cigarettes.*

- (t) for emergency purposes; or
- (u) required or authorised by law; or
- (v) doing so is not safe in all the circumstances.

## **PART 3 — WORK**

### **6 Leaving premises to attend work**

A person who ordinarily resides in the State of Victoria may leave the premises where they ordinarily reside to attend work (whether paid or voluntary, including for charitable or religious purposes) if it is not reasonably practicable for the person to do so from those premises.

## **PART 4 — GATHERINGS**

### **7 Restrictions on gatherings**

#### *Private gatherings*

- (1) During the stay safe period, a person who ordinarily resides in the State of Victoria must not permit another person to enter the premises at which they ordinarily reside (whether or not entering any building on the premises).
- (2) Subclause (1) does not operate to prevent any person entering the premises:
  - (a) if the other person also ordinarily resides at the premises; or
  - (b) if permitted under, and provided they comply with the requirements of, the Directions currently in force; or
  - (c) to attend or undertake work or education services; or

*Note: this includes a person who provides professional respite care for carers of people with complex needs, where that professional is permitted to work in accordance with the Directions currently in force.*

*Examples: a tradesperson for the purpose of carrying out repairs; a person delivering personal services such as hairdressing in the home.*

- (d) to provide childcare, child-minding, early childhood education, schooling or education services (whether paid or on a voluntary basis); or
- (e) if that person is a parent or guardian of a child who ordinarily resides at the premises, to visit that child; or
- (f) to provide care and support to a relative or other person who ordinarily resides at the premises:
  - (i) who has particular needs because of age, infirmity, disability, illness or a chronic health condition; or

- (ii) because of matters relating to the relative or other person's health (including mental health or pregnancy); or
- (g) to visit someone who ordinarily resides at those premises and with whom they are in an intimate personal relationship; or

*Note: people in an intimate personal relationship may stay overnight at each other's ordinary places of residence, and are not required to wear a face covering while visiting each other at those premises, provided they otherwise comply with these directions.*

- (h) if the person is visiting for a social gathering (**visiting person**), provided that there is no one else at the premises except for:
  - (i) the person (or people) who ordinarily reside at those premises and any other person with whom those people are in an intimate personal relationship; and
  - (ii) no more than 14 other persons who are visiting for a social gathering; and
  - (iii) any infant under one year of age of a visiting person; and
  - (iv) and provided that the premises does not have more than 15 visiting persons for a social gathering each day; or

*Note: under subclause (2)(h), up to 15 people may visit for a social gathering each day, with any infant under one year of age not counting towards this limit. The 15 people do not need to be from the same household and do not have to visit at the same time.*

- (i) to attend an inspection of real estate for the purposes of a prospective sale or rental of the property, organised in accordance with any requirements in the **Restricted Activity Directions (Victoria) (No 2)**; or
- (j) for the purpose of moving to the premises as the place where they will ordinarily reside; or
- (k) to escape harm or the risk of harm, including harm relating to family violence or violence of another person; or
- (l) for medical or emergency purposes; or
- (m) for purposes relating to the administration of justice; or
- (n) as required or authorised by law; or
- (o) for the purposes of **national security**.

*Note: subclause (1) does not apply to a **care facility**, as defined in the **Care Facilities Directions (No 17)**. Any regulation of access and visits to care facilities are contained in those directions.*

### *Public gatherings*

- (3) During the stay safe period, a person in the State of Victoria must not arrange to meet, or organise or intentionally attend a gathering of, more than 49 other

persons (with any infant under one year of age not counting towards this limit) for a common purpose at public place, except:

*Note 1: under subclause (3), the limit on the number of people who may meet at any one time in a public place is 50.*

*Note 2: two or more groups of 50 people cannot meet for a common purpose at a public place. In addition, a group in a public place must take reasonable steps to maintain a safe distance from any other groups in that public place.*

*Note 3: subclause (3) does not prevent a person attending a public place (for example, a shopping centre) for a purpose (for example, shopping), where other people are also likely to be attending that public place for a similar purpose. It prevents people from attending a public place intending to gather with other people for a common purpose (for example, meeting family or friends at the shopping centre).*

- (a) for the purpose of a religious gathering (including ceremonies) with no more than:
  - (i) 149 other **members of the public** if held in an indoor space; or
  - (ii) 299 other members of the public if held in an outdoor space, plus any faith leaders (and any others necessary to facilitate the ceremony), provided they comply with any requirements of the **Restricted Activity Directions (Victoria) (No 2)**; or
- (b) for the purpose of attending a wedding in the State of Victoria that complies with the requirements in subclause (4); or
- (c) for the purpose of attending a funeral in the State of Victoria that complies with the requirements in subclause (5); or
- (d) it is necessary to arrange a meeting or organise or attend a gathering for one or more of the following purposes:
  - (i) engaging in an activity permitted under, and provided they comply with any requirements of, the **Restricted Activity Directions (Victoria) (No 2)**; or
  - (ii) to attend or undertake work in accordance with clause 6; or
  - (iii) medical or emergency purposes; or
  - (iv) purposes as required or authorised by law; or
  - (v) purposes relating to the administration of justice.

*Note: a person may leave the premises at which they ordinarily reside using transport (public or private) regardless of how many people are on the tram, train, or bus or in the vehicle.*

#### *Weddings and funerals*

- (4) The requirements for a wedding held in the State of Victoria are that:
  - (a) it involves no more than 150 members of the public, including the two persons being married and the two persons witnessing the marriage for the purposes of section 44 of the **Marriage Act 1961** of the

Commonwealth, with any infant under one year of age not counting towards this limit; and

- (b) in any case (other than at a person's ordinary place of residence), the total number of members of the public present at the same time in the space must not exceed the **density quotient**; and
- (c) if held at a person's ordinary place of residence, it must comply with the gathering restrictions in subclauses (1) and (2)(a), (c), (g) and (h).

*Note: record-keeping requirements apply to weddings as set out in the **Workplace Directions (No 10)**.*

(5) The requirements for a funeral held in the State of Victoria are that:

- (a) it involves no more than 150 members of the public, with any infant under one year of age not counting towards this limit; and
- (b) in any case (other than at a person's ordinary place of residence), the total number of members of the public present at the same time in the space must not exceed the density quotient; and
- (c) if held at a person's ordinary place of residence, it must comply with the gathering restrictions in subclauses (1) and (2)(a), (c), (g) and (h).

*Note: record-keeping requirements apply to funerals as set out in the **Workplace Directions (No 10)**.*

## **PART 5 — OTHER PROVISIONS**

### **8 Relationship with other Directions**

- (1) If there is any inconsistency between Parts 2, 3 and 4 of these directions and the **Diagnosed Persons and Close Contacts Directions (No 13)**, Parts 2, 3 and 4 of these directions are inoperative to the extent of any inconsistency.
- (2) If there is any inconsistency between these directions and a direction or other requirement contained in a **Direction and Detention Notice**, these directions are inoperative to the extent of the inconsistency.
- (3) If there is any inconsistency between these directions and a direction or other requirement contained in the **Care Facilities Directions (No 17)**, these directions are inoperative to the extent of the inconsistency.
- (4) Unless the context otherwise requires, a reference in any Directions currently in force, in any Direction and Detention Notice, or in any approved form under a Direction currently in force or a Direction and Detention Notice to:
  - (a) a Direction currently in force or these directions, or a defined term in a Direction currently in force or these directions, will be taken to mean that direction (and hence that defined term) as amended or replaced from time to time; or
  - (b) an earlier version of a particular Direction currently in force or these directions will be taken to be a reference to the current version of that particular direction.



## 9 Definitions

For the purposes of these directions:

- (1) **care facility** has the same meaning as in the **Care Facilities Directions (No 17)**;
- (2) **density quotient** has the same meaning as in the **Workplace Directions (No 10)**;
- (3) **Direction and Detention Notice** means a notice given to a person requiring the person to be detained for a specified period;
- (4) **Directions currently in force** means the **Restricted Activity Directions (Victoria) (No 2)**, the **Stay Safe Directions (Victoria) (No 2)**, the **Diagnosed Persons and Close Contacts Directions (No 13)**, the **Hospital Visitor Directions (No 15)**, the **Care Facilities Directions (No 17)**, the **Workplace Directions (No 10)**, the **Workplace (Additional Industry Obligations) Directions (No 12)**, and the **Border Crossing Permit Scheme Directions**, each as amended or replaced from time to time;
- (5) **face covering** means a fitted face mask that covers the nose and mouth to provide the wearer protection against infection (but does not include a face shield);
- (6) **indoor space** means an area, room or **premises** that is or are substantially enclosed by a roof and walls that are permanent structures rising either from floor to ceiling or are at least 2.1 metres high, regardless of whether the roof or walls or any part of them are open or closed;
- (7) **member of the public** means 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;
- (8) **national security** has the meaning that security has in the **Australian Security Intelligence Organisation Act 1979** of the Commonwealth;
- (9) **outdoor space** means a space that is not an **indoor space**;
- (10) **photographer** means a person who takes photographs as a business and has an Australia Business Number for this purpose;
- (11) **premises** means:
  - (a) a building, or part of a building; and
  - (b) any land on which the building is located, other than land that is available for communal use;
- (12) **prison** has the same meaning as in the **Corrections Act 1986**;
- (13) **prisoner** has the same meaning as in the **Corrections Act 1986**;
- (14) **remand centre** has the same meaning as in the **Children, Youth and Families Act 2005**;
- (15) **school** means a registered school as defined in the **Education and Training Reform Act 2006**;

- (16) **stay safe period** has the meaning in clause 4;
- (17) **vehicle** has the same meaning as in the PHW Act;
- (18) **visiting person** has the meaning in clause 7(2)(h);
- (19) **youth justice centre** has the same meaning as in the **Children, Youth and Families Act 2005**;
- (20) **youth residential centre** has the same meaning as in the **Children, Youth and Families Act 2005**.

## 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.

22 November 2020