

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

Workplace (Additional Industry Obligations) Directions (No 16)

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 (**SARS-CoV-2**) 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 establish additional specific obligations on **employers** and **workers** in specific industries in relation to managing the risk associated with SARS-CoV-2.
- (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** and the **Workplace Directions** and are not intended to derogate from any such obligations.
- (5) These directions replace the **Workplace (Additional Industry Obligations) Directions (No 15)** and add **Australian air transport operators** to the list of Additional Obligation Industries and impose obligations on airline services to include in the COVIDSafe Plans the processes they will put in place to ensure compliance with requirements to wear a face covering.

2 Citation

These directions may be referred to as the **Workplace (Additional Industry Obligations) Directions (No 16)**.

3 Revocation

The **Workplace (Additional Industry Obligations) Directions (No 15)** are revoked at 5:59:00pm on 11 January 2021.

4 Commencement

These directions commence at 5:59:00pm on 11 January 2021 and end at 11:59:00pm on 29 January 2021.

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 perishable food Work Premises**; and
 - (e) warehousing and distribution centres; and
 - (f) **commercial cleaning services**; and
 - (g) **commercial passenger vehicle services**; and
 - (h) horticulture operations using **seasonal workers** for **seasonal horticultural work**; and
 - (i) **care facilities**; and
 - (j) **ports of entry** servicing international arrivals; and
 - (k) **hotel quarantine**; and
 - (l) **hospitals**; and
 - (m) **Australian air transport operators**.
- (2) These directions apply to Additional Obligation Industries Work Premises that are located:
- (a) in relation to warehousing and distribution centres, supermarket Work Premises and perishable food Work Premises, in **Metropolitan Melbourne**; and
 - (b) in relation to all other Additional Obligation Industries not referred to in subclause (2)(a), anywhere in Victoria.

6 General Obligations

- (1) This clause 6 does not apply to care facilities, hospitals (except for high-risk hospital Work Premises, to which the clause does apply) and Australian air transport operators.

Note: the exception of care facilities, hospitals (except for high-risk hospital Work Premises) and Australian air transport operators from the requirements in clause 6 does not exempt care facilities from satisfying equivalent requirements imposed under other regulatory arrangements.

Compliance

- (2) 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

- (3) An employer in relation to an Additional Obligation Industry Work Premises 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 (3)(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 a Work Premises must:
- (a) increase the regularity of comprehensive cleaning by ensuring all areas where workers are working are cleaned at least daily (except for meat, poultry and seafood processing, seasonal horticulture, care facilities, hospitals and ports of entry); and

Note: the exception of care facilities, hospitals and / or ports of entry from the requirements in subclause 7(1) does not exempt care facilities, hospitals and / or ports of entry from satisfying equivalent requirements imposed under other regulatory arrangements.

- (b) where the employer's Work Premises is an industry that is listed in the **Surveillance Testing Industry List and Requirements** (as amended from time to time on the advice of the Chief Health Officer), carry out surveillance testing for SARS-CoV-2 on its workers in relation to the Work Premises, in accordance with the requirements of that document, including:
 - (i) those sections of its workforce required to be tested under the Department Surveillance Testing Industry List and Requirements; and
 - (ii) a weekly surveillance testing target of the percentage of workers that are to be tested,for each industry listed in the Surveillance Testing Industry List and Requirements; and
- (c) keep records of surveillance testing of workers for SARS-CoV-2.

Note: the industries and requirements included in the Surveillance Testing Industry List and Requirements may be amended on the advice of the Chief Health Officer.

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

- (2) 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) 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; and
 - (iii) who is at the Work Premises whenever workers are on Site; and
 - (b) arrange operations at the Work Premises (except in relation to a supermarket Work Premises and perishable food 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) where workers are from the same household, ensuring they work in the same shift and work area; and
- (c) 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 (2)(b); and
- (d) keep records of duty rosters for COVID Marshals.

Horticulture Work Premises using seasonal workers for seasonal horticultural work

- (3) An employer may only operate a **seasonal Work Premises** using seasonal workers for seasonal horticultural work if it complies with subclauses (4) to (7) (inclusive).
- (4) 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 the 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.

- (5) 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.
- (6) 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 (4).

- (7) The employer must provide:
- (a) clean water and soap for washing hands; and
 - (b) well-maintained toilet facilities,
- for 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.

Care facilities

- (8) Subject to subclause (9), an employer in relation to a Work Premises that is a care facility in Victoria must not require or permit a **care facility worker** to perform work at more than one Work Premises of the employer.
- (9) Subclause (8) does not apply where it is not practicable to limit a care facility worker to only one Work Premises.
- (10) Where subclause (9) applies, the employer must be able to demonstrate the systems of work which it has put in place to minimise the number of care facility workers working across multiple Work Premises.
- Example: rosters.*
- (11) If a care facility worker is working at more than one Work Premises for two or more different employers:
- (a) the care facility worker must provide a written declaration to each employer to advise them that the worker is working at more than one Work Premises and must provide details of the other Work Premises to each employer; and
 - (b) each employer must maintain a record of all care facility workers who have disclosed to the employer under subclause (11)(a) that they are working across more than one Work Premises.
- (12) 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 SARS-CoV-2 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**.
- (13) Despite clause 5(1)(b) of the **Care Facilities Directions**, an employer in relation to a Work Premises that is a care facility in Victoria 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 SARS-CoV-2; and
 - (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 (13) is that, in the event of an outbreak of SARS-CoV-2 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 SARS-CoV-2, before moving from that care facility to commence work at another care facility.

- (14) An employer in relation to a Work Premises that is a care facility in Victoria must comply with personal protective equipment requirements in accordance with the requirements of the Department of Health and Human Services.
- (15) The Chief Health Officer may grant an exemption in writing to the requirements of subclause (13).

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

Ports of entry

- (16) A **port of entry worker** means:
 - (a) any airport or maritime port worker who has direct contact with passengers or crew at the international port of entry, including occasional contact or interactions; or
 - (b) a worker or person who interacts with the environment within the international port of entry where passengers and crew are or have been, which includes any worker or person who boards a vessel, ship or aircraft.
- (17) In relation to a Work Premises that is a port of entry Work Premises servicing international arrivals, an employer must:

Note: a Work Premises which is a port of entry servicing international arrivals is a port or airport at which workers provide services in relation to, or encounter,

passengers, crew members, shipping vessels or aircraft arriving in Victoria from outside of Australia.

- (a) require port of entry workers to declare in writing at the start of each shift that the port of entry worker:
 - (i) is free of SARS-CoV-2 Symptoms; and
 - (ii) 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, where relevant); and
 - (iii) is not currently required to self-isolate or self-quarantine under the **Diagnosed Persons and Close Contacts Directions**.
- (b) designate a port of entry worker(s) 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; and
 - (iii) who is at the Work Premises whenever workers are on Site; 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) 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 (17)(c); and
- (e) make available an adequate supply of PPE free of charge to port of entry workers; and

- (f) ensure that all port of entry workers wear appropriate PPE in accordance with the requirements of the Department; and
 - (g) test the temperature of each port of entry worker each day before they enter the Work Premises and, if the port of entry worker's temperature is 37.5°C or more, direct the port of entry worker to:
 - (i) leave the Work Premises immediately; and
 - (ii) be tested for SARS-CoV-2; and
 - (iii) self-isolate until a negative test result is received.
- (18) Subclauses (17)(b) and (17)(c) do not apply to the following port of entry workers:
- (a) administrative support service workers;
 - (b) truck drivers;
 - (c) tugboat crew;
 - (d) stevedores; and
 - (e) office workers at freight terminals.

Hotel quarantine

- (19) Any worker in relation to a hotel quarantine Work Premises should provide the Department with the following details of any person with whom they ordinarily reside:
- (a) the worker's name, contact number and address;
 - (b) the person's first name; and
 - (c) a contact phone number; and
 - (d) the person's workplace(s), including address; and
 - (e) if the person attends school, the name and address of the school.
- (20) In relation to a Work Premises that is a hotel quarantine Work Premises, an employer must:
- (a) require workers to declare in writing at the start of each shift that the worker:
 - (i) is free of SARS-CoV-2 Symptoms; and
 - (ii) 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, where relevant); and
 - (iii) is not currently required to self-isolate or self-quarantine under the **Diagnosed Persons and Close Contacts Directions**.
 - (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
 - (iii) who is at the Work Premises whenever workers are on Site; 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) where workers are from the same household, ensuring they work in the same shift and work area; and
- (d) make available an adequate supply of PPE free of charge to workers; and
- (e) ensure that all workers wear appropriate PPE in accordance with the requirements of the Department; and
- (f) 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 SARS-CoV-2; and
 - (iii) self-isolate until a negative test result is received; and
- (g) 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 (20)(c).
- (21) Subject to subclause (22), an employer in relation to a hotel quarantine Work Premises must not require or permit a worker to perform work at more than one hotel quarantine Work Premises of the employer.

- (22) Subclause (21) does not apply where it is not practicable to limit a worker to only one hotel quarantine Work Premises.
- (23) Where subclause (22) applies, the employer must be able to demonstrate the systems of work which it has put in place to minimise the number of workers working across multiple Work Premises.

Example: rosters.

- (24) If a worker is working at more than one Work Premises for two or more different employers:
 - (a) the worker must provide a written declaration to each employer to advise them that the worker is working at more than one Work Premises and must provide details of the other Work Premises to each employer; and
 - (b) each employer must maintain a record of all workers who have disclosed to the employer under subclause (24)(a) that they are working across more than one Work Premises.

Hospitals

- (25) In relation to a Work Premises that is a hospital, an employer must require workers to declare in writing at the start of each shift that the worker:
 - (a) is free of SARS-CoV-2 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, where relevant); and
 - (c) is not currently required to self-isolate or self-quarantine under the **Diagnosed Persons and Close Contacts Directions**.
- (26) In relation to those parts of a hospital that are a **high-risk hospital Work Premises**, an employer must:
 - (a) designate a **high-risk hospital Work Premises worker** 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
 - (iii) who is at the Work Premises whenever workers are on site; and
 - (b) arrange operations at the Work Premises so as to have high-risk hospital Work Premises workers working consistently with the same group of other high-risk hospital Work Premises workers where reasonably practicable, including (but not limited to):
 - (i) developing separate shifts in a way that minimises physical interactions between groups of high-risk hospital Work Premises workers attending different shifts;

- (ii) separates high-risk hospital Work Premises 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) where high-risk hospital Work Premises workers are from the same household, ensuring they work in the same shift and work area.
- (27) Subject to subclause (28), an employer in relation to a high-risk hospital Work Premises must not require or permit a high-risk hospital Work Premises worker to perform work at more than one Work Premises of the employer.
- (28) Subclause (27) does not apply where it is not practicable to limit a high-risk hospital Work Premises worker to only one Work Premises.
- (29) Where subclause (28) applies, the employer must be able to demonstrate the systems of work which it has put in place to minimise the number of high-risk hospital Work Premises worker working across multiple Work Premises.
- Example: rosters.*
- (30) If a high-risk hospital Work Premises worker working in a high-risk hospital Work Premises is working at more than one Work Premises for two or more different employers:
- (a) the high-risk hospital Work Premises worker must provide a written declaration to each employer to advise them that the high-risk hospital Work Premises worker is working at more than one Work Premises and must provide details of the other Work Premises to each employer; and
 - (b) each employer must maintain a record of all high-risk hospital Work Premises workers who have disclosed to the employer under subclause (11)(a) that they are working across more than one Work Premises.

Australian Air Transport Services (Passenger)

- (31) In relation to a Work Premises that is an Australian air transport operator's Work Premises, an employer must:
- (a) include in its COVIDSafe Plan the processes it will put in place to ensure compliance with requirements to wear a face covering, where any other Directions currently in force require a face covering to be worn in its Work Premises or part of its Work Premises;
 - (b) provide appropriate facilities for the disposal of face coverings at its Work Premises covered under subclause (31)(a).

8 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**, the **Workplace Directions** are inoperative to the extent of the inconsistency.

9 Other definitions

For the purposes of these directions:

- (1) **abattoir** has the meaning under the PrimeSafe licence categories “abattoirs (domestic)” and “abattoirs (exports)”;
- (2) **Additional Obligation Industries** has the meaning in clause 5(1);
- (3) **Australian air transport operator** has the same meaning as in the **Civil Aviation Safety Amendment (Part 119) Regulations 2018**;
- (4) **aircraft** has the same meaning as in the **Stay Safety Directions (Victoria)**;
- (5) **airport** means a facility that receives scheduled international passenger air transport services and / or passenger charter air services from international markets;
- (6) **Authorised Officer** has the same meaning as in the **PHW Act**;
- (7) **care facility** has the same meaning as in the **Care Facilities Directions**;
- (8) **Care Facilities Directions** means the **Care Facilities Directions (No 19)** as amended or replaced from time to time;
- (9) **care facility worker** has the same meaning as “worker” in clause 6(1) of the **Care Facilities Directions**;
- (10) **cleaned** has the same meaning as in the **Workplace Directions**;
- (11) **commercial cleaning services** means a business that provides cleaning and sanitisation services to commercial premises;
- (12) **commercial passenger vehicle services** has the meaning given in section 4 of the **Commercial Passenger Vehicle Industry Act 2017**;
- (13) **confirmed case** means a worker diagnosed with SARS-CoV-2;
- (14) **COVID Marshal** has the meaning in clause 7(2)(a);
- (15) **Department** means the Department of Health and Human Services;
- (16) **Diagnosed Persons and Close Contacts Directions** means the **Diagnosed Persons and Close Contacts Directions (No 15)** as amended or replaced from time to time;
- (17) **Direction and Detention Notice** means a notice given to a person requiring the person to be detained for a specified period;
- (18) **Directions currently in force** has the same meaning as in the **Stay Safe Directions (Victoria)**;

- (19) **employee** includes a person who is self-employed;
- (20) **employer** means a person who owns, operates or controls a **Work Premises** and includes a person who is self-employed or a sole-trader;
- (21) **face covering** has the same meaning as in the **Workplace Directions**;
- (22) **high-risk hospital Work Premises** means the following parts of a **hospital**:
- (a) any ward treating confirmed cases of SARS-CoV-2;
 - (b) where the Chief Health Officer (or their delegate) notifies a hospital that there is community transmission in an area proximate to that hospital, that hospital's:
 - (i) ward(s) treating any **high-risk suspected cases of SARS-CoV-2**;
 - (ii) emergency department; and
 - (iii) intensive care unit;
- (23) **high-risk hospital Work Premises worker** means any worker involved in the direct care of patients, and those who interact with, a **high-risk hospital Work Premises**;
- (24) **high-risk suspected cases of SARS-CoV-2** means a person who has a compatible clinical illness to SARS-CoV-2 and in the last 14 days prior to onset of illness:
- (a) was a close contact with a confirmed or probable case; or
 - (b) travelled internationally; or
 - (c) worked as a health care, aged or residential care worker with direct patient contact; or
 - (d) lived in or travelled through a geographically localised area with an elevated risk of community transmission of SARS-CoV-2, as defined by public health authorities in that area;
- (25) **hospital** has the same meaning as in the **Hospital Visitor Directions**;
- (26) **Hospital Visitor Directions** means the **Hospital Visitor Directions (No 17)** as amended or replaced from time to time;
- (27) **hotel quarantine** mean a place (being a hotel or other facility or class of facility), designated by the Attorney-General and published in the Government Gazette, where people are detained in or directed to remain in, or are staying in, quarantine, isolation or emergency accommodation at, for the purpose of eliminating or reducing the serious risk to public health posed by the COVID-19 pandemic;
- (28) **inspector** has the same meaning as in the **OHS Act**;
- (29) **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);

- (30) **meat processing facility** has the meaning under the PrimeSafe licence category “further meat processing facilities”;
- (31) **Metropolitan Melbourne** means the area within the municipal districts under the local government of the municipal councils set out in Schedule 2 of the **Planning and Environment Act 1987**;
- (32) **OHS Act** means the **Occupational Health and Safety Act 2004**;
- (33) **outbreak** means:
- (a) a single **confirmed case** of SARS-CoV-2 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** means a Work Premises that is predominantly a perishable food facility that is a chilled distribution facility.
- (35) **personal protective equipment** has the same meaning as in the **Occupational Health and Safety Regulations 2017**;
- (36) **PHW Act** means the **Public Health and Wellbeing Act 2008**;
- (37) **port** means the port of Melbourne, the port of Geelong, the port of Portland, the port of Hastings and any other port declared under section 6 of the **Port Management Act 1995 (Vic)** in relation to which port lands or port waters or both port lands and port waters have been declared under section 5 of the **Port Management Act 1995 (Vic)**;
- (38) **port of entry** means a **port** or **airport**;
- (39) **port of entry worker** has the meaning in subclause 7(16);
- (40) **poultry processing facility** has the meaning under the PrimeSafe licence category “poultry meat processing facilities”;
- (41) **premises** has the same meaning as in the **PHW Act**;
- (42) **reasonably practicable** is to have its ordinary and common sense meaning;
- (43) **records requirement** has the same meaning as in the **Workplace Directions**;
- (44) **SARS-CoV-2 Symptoms** has the same meaning as in the **Workplace Directions**;
- (45) **seafood processing facility** has the meaning under the PrimeSafe licence category “seafood processing facilities”;

- (46) **self-isolate** has the same meaning as in the **Diagnosed Persons and Close Contacts Directions**;
- (47) **self-quarantine** has the same meaning as in the **Diagnosed Persons and Close Contacts Directions**;
- (48) **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;
- (49) **seasonal Work Premises** means a farm or workplace where **seasonal horticultural work** is undertaken;
- (50) **seasonal worker** means a worker temporarily employed or engaged to perform **seasonal horticultural work** at **seasonal Work Premises**;
- (51) **Stay Safe Directions (Victoria)** means the **Stay Safe Directions (Victoria) (No 9)** as amended or replaced from time to time;
- (52) **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;
- (53) **supermarket Work Premises** means the total of all supermarket distribution facilities;
- (54) **Surveillance Testing Industry List and Requirements** means the Department document that lists the industries (as amended from time to time on the advice of the Chief Health Officer) that are required to carry out surveillance testing on their workers, and also sets out the surveillance testing requirements for those listed industries;
- Note: the Surveillance Testing Industry List and Requirements are available at <https://www.dhhs.vic.gov.au/surveillance-testing-industry-list-covid-19>.*
- (55) **vehicle** has the same meaning as in the **PHW Act**;
- Note: under the PHWA, vehicle includes any means of transport, whether used on land, sea or in the air.*
- (56) **Workplace Directions** means the **Workplace Directions (No 16)** as amended or replaced from time to time;
- (57) **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**;
- Note: a Work Premises does not include an employee’s ordinary place of residence.*
- (58) **worker** includes **employees**, labour hire, subcontractors (and their employees), volunteers and any other person engaged or permitted by an employer to perform work.

10 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.

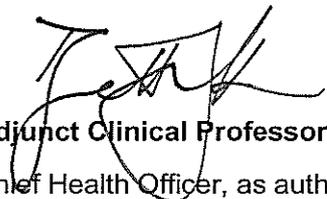
Note: currently, 120 penalty units equals \$19,826 and 600 penalty units equals \$99,132.

- (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.

- (3) 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.

11 January 2021