

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

Workplace Directions (No 26)

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 limit the number of Victorians attending Work Premises to assist in reducing the frequency and scale of **outbreaks** of SARS-CoV-2 in Victorian workplaces and to establish more specific obligations on **employers** and **workers** 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 obligation an employer may have under the **OHS Act** and are not intended to derogate from any such obligations.
- (5) These directions replace the **Workplace Directions (No 25)**.

2 Citation

These directions may be referred to as the **Workplace Directions (No 26)**.

3 Revocation

The **Workplace Directions (No 25)** are revoked at 11:59:00pm on 30 April 2021.

4 Commencement

These directions commence at 11:59:00pm on 30 April 2021 and end at 11:59:00pm on 7 May 2021.

5 Operation of a Work Premises

- (1) An employer must comply with the **Restricted Activity Directions (Victoria)** where it applies to that employer.
- (2) An employer must comply with the **Workplace (Additional Industry Obligations) Directions** where it applies to that employer.
- (3) Workers must not attend a Work Premises if they have been tested for SARS-CoV-2 because they are symptomatic whilst awaiting the result of that test (excluding where a worker is awaiting results of a test taken in accordance with a surveillance testing obligation under the **Workplace (Additional Industry Obligations) Directions**).

6 Preventative measures at Work Premises to reduce the risk of SARS-CoV-2

Face coverings requirement

- (1) An employer must take reasonable steps to ensure the worker, when working at a Work Premises:
 - (a) carries a **face covering** at all times, except where the exception in subclause 5(8)(e) of the **Stay Safe Directions (Victoria)** applies to the worker; and
 - (b) wears a face covering where required to do so in accordance with any other Directions currently in force, except where an exception in subclause 5(8) of the **Stay Safe Directions (Victoria)** applies to the worker.

*Note: face shields on their own do not meet the face covering requirements. Please refer to the **Department's** guidelines for further information.*

Note: a worker is required to wear a face covering at all other times when the exceptions above do not apply, if required to do so in accordance with any other Directions currently in force.

COVIDSafe Plan

- (2) Subject to subclause (4), an employer must, for each Work Premises:
 - (a) have in place a COVIDSafe Plan, which addresses the health and safety issues arising from SARS-CoV-2, including but not limited to:

Note: employers can use the template plan accessible from the following website for guidance: www.coronavirus.vic.gov.au/covidsafe-plan, as amended or replaced from time to time by the Victorian Government.

- (i) the employer's process for implementing the record-keeping obligation under subclause (6);
- (ii) the appropriate level of **PPE** to be worn at the Work Premises;
- (iii) actions taken by the employer to mitigate the introduction of SARS-CoV-2 at the Work Premises;

*Examples: temperature testing, provision and training for PPE use, regular cleaning, specific **cleaning requirements** following an outbreak, physical distancing requirements (e.g. closing or reconfiguring **common areas** such as lunchrooms to support workers remaining 1.5 metres apart at all times).*

- (iv) the processes which the employer has put in place to respond to any **suspected case** or any **confirmed case** of SARS-CoV-2 at the Work Premises, taking into account the employer's obligations under these directions;
 - (v) an acknowledgement that the employer understands its responsibilities and obligations under these directions; and
 - (b) document and evidence, and require its managers to document and evidence, implementation of the COVIDSafe Plan.
- (3) The employer and the employer's workers must comply with the COVIDSafe Plan.
- (4) An employer is not required to comply with subclause (2):
- (a) for any Work Premises that have no workers working at that Work Premises; or
 - (b) in relation to:
 - (i) each individual vehicle that makes up a fleet of two or more vehicles; and
 - Note 1: despite subclause (4)(b), an employer must have a COVIDSafe Plan in relation to a fleet of two or more vehicles.*
 - Note 2: where an employer owns, operates or controls only one vehicle, then it must have a COVIDSafe Plan for that vehicle.*
 - Example: where an employer owns, operates or controls only one vehicle used to provide **commercial passenger vehicle services** or a vehicle used to provide **passenger services**, then it must have a COVIDSafe Plan for that vehicle.*
 - (ii) vehicles used predominantly by an **employee** to travel between the Work Premises and the employee's ordinary place of residence.
 - Note: each vehicle used predominantly as a Work Premises (e.g. food trucks, dental vans) requires a COVIDSafe Plan.*
- (5) An employer must:
- (a) comply with any direction given by an **Authorised Officer** or **WorkSafe inspector** to modify a COVIDSafe Plan, including:
 - (i) following an outbreak of confirmed cases of SARS-CoV-2 at a Work Premises; or
 - (ii) if the Authorised Officer considers that the COVIDSafe Plan is not fit for purpose; and

- (b) implement any modifications required in accordance with subclause (5)(a).

Record-keeping obligations (records requirement)

- (6) Subject to subclause (8), an employer must keep a record of all workers and all visitors who attend the Work Premises for longer than 15 minutes (at a minimum), which includes:
 - (a) the person's first name; and
 - (b) a contact phone number; and
 - (c) the date and time at which the person attended the Work Premises; and
 - (d) the areas of the Work Premises which the person attended.

Note 1: the records requirement applies in respect of all persons that attend the facility or venue for longer than 15 minutes, which may include staff, customers, and maintenance and delivery workers.

Note 2: where a venue is not staffed, an employer will have complied with the records requirement if they display instructions in a prominent location that clearly explain how patrons and other visitors to the venue should record their details.

Note 3: where a person does not have a phone number, an employer may comply with the record-keeping requirement by registering that person's contact details using a phone number for the contact most likely to be able to locate the person, such as a known relative, carer, or the phone number of the employer itself.

- (7) An employer may comply with the record-keeping requirements in subclause (6) in relation to a worker or visitor where the worker or visitor records their visit to the Work Premises using a digital system provided by the **Service Victoria CEO** and other parts of the Victorian Government for that purpose.
- (8) An employer is not required to comply with the records requirement in subclause (6):
 - (a) where they are operating a Work Premises which is a **market**, market stall, a **retail facility** or **retail shopping centre** with respect to customers who attend that Work Premises, where it is not practicable to do so; or
 - (b) subject to subclauses (8A) and (8B), in relation to **members of the public** using a commercial passenger vehicle service; or
 - (c) in relation to essential support groups and health services if confidentiality is typically required.

Example: support groups for alcohol and drugs or family violence typically require confidentiality.

- (8A) Despite subclause (8)(b), an **owner** of a vehicle used as a commercial passenger vehicle service must make available and clearly visible and accessible in the vehicle, at all times, a digital system for use by drivers and passengers that records:

- (a) the person's first name; and
 - (b) a contact phone number; and
 - (c) the date and time at which the driver or passenger was in, or used, the commercial passenger vehicle.
- (8B) The digital system referred to in subclause (8A) must be either:
- (a) a digital system provided by the Service Victoria CEO and other parts of the Victorian Government for the purpose of complying with subclause (8A); or
 - (b) a digital system included in the list of approved API-linked providers updated by the Chief Health Officer from time to time and published at www.coronavirus.vic.gov.au/visitation-api-connected-third-parties.
- (9) In handling the information outlined in subclauses (6) or any information provided by a driver or passenger using the system made available under subclause (8A):
- (a) an employer who uses or an owner who makes available a system other than a digital system provided by the Service Victoria CEO and other parts of the Victorian Government must:
 - (i) not collect personal information unless:
 - (A) the information is necessary to meet the requirements outlined in subclauses (6); or
 - (B) the information is provided by a driver or passenger using the system made available under subclause (8A); and
 - (ii) use reasonable endeavours to protect the personal information from use or disclosure, other than in accordance with a request made by an Authorised Officer (or a person assisting an Authorised Officer); and

Note: information should be collected in a way that protects it from being disclosed to other patrons.

Example: where using a paper-based method, a sheet of paper could be placed over previous visitor details on a sheet that records the names.
 - (iii) use reasonable endeavours to notify the person from whom the personal information is being collected that the primary purpose of collection is for SARS-CoV-2 contact tracing, and that their personal information may be collected and stored by the Victorian Government for this purpose; and
 - (iv) destroy the information as soon as reasonably practicable following 28 days after the attendance at the Work Premises, unless a statutory requirement permits or requires the personal information to be retained; and

Note: clause 10(a) is intended to apply to employers who use or owners who make available a third party digital system, or other

system (e.g. paper based record keeping), to create a worker or visitor record, whether or not:

- (a) the employer also uses or the owner also makes available a digital system provided by the Service Victoria CEO and other parts of the Victorian Government to comply with subclauses (6) or (8A); or
 - (b) the third party digital system, or other system used by the employer or made available by the owner, links to a digital system provided by the Service Victoria CEO and other parts of the Victorian Government.
- (b) **Service Victoria** and/or another operator of a system provided by the Victorian Government, must destroy the information as soon as reasonably practicable following 28 days after the attendance at the Work Premises, unless a statutory requirement permits or requires the personal information to be retained.

Additional records requirement (additional records requirement)

- (10) An employer must keep records to demonstrate compliance with these directions, including (but not limited to):
- (a) all logs created during the time these directions are in place;
 - (b) Work Premises rosters;
 - (c) time and attendance records;
 - (d) payroll data.
- (11) In collecting the information outlined in subclause (10), 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.

Density quotient (density quotient)

- (12) In any shared spaces and publicly accessible areas at the Work Premises, an employer must comply with the **density quotient** for each shared space and each publicly accessible area.

*Note: in relation to a **care facility**, shared spaces and publicly accessible spaces include entrance areas, waiting rooms and communal areas where visitors may enter but does not include patient or resident rooms or resident lounges not accessible by visitors.*

- (13) The **density quotient** for the purposes of subclause (12) limits:
- (a) in relation to a shared space, the number of persons who are permitted in a shared space; or

- (b) in relation to a publicly accessible space:
 - (i) where that publicly accessible space is occupied by workers on an ad hoc basis, the number of members of the public; or
 - (ii) where that publicly accessible space is occupied by workers on an ongoing basis, the number of persons,

*Note: the **Restricted Activity Directions (Victoria)** specifies which facilities should calculate the density quotient by reference to the number of persons in the accessible area or alternatively the number of members of the public in the accessible area.*

at any one time to the number calculated by dividing the total accessible space (measured in square metres) by 2 in relation to any shared space or publicly accessible space and:

- (c) for an indoor space, applies to each single undivided space permitted to operate under these directions; and
- (d) for an **indoor zone**, applies to each indoor zone within an indoor space permitted to operate under these directions; and
- (e) for an **outdoor space**, market or retail shopping centre, applies to the total space permitted to operate under these directions; and
- (f) for a hospital, to non-clinical areas of the hospital where practicable.

Example: if an outdoor space is 8.5 metres long and 4.5 metres wide, its total area is 38.25 square metres. Its density quotient is 19.125, so no more than 19 members of the public would be permitted to be in the outdoor space at the same time.

- (14) The number of people allowed in a shared space or publicly accessible area may be subject to a separate specified density measure or cap under the **Restricted Activity Directions (Victoria)** and, in those circumstances, the density quotient will not apply.

*Example 1: under the **Restricted Activity Directions (Victoria)** the publicly accessible area used to calculate the density measure for **food and drink facilities** excludes toilets, separate hallways, separate foyers or play areas.*

*Example 2: under the **Restricted Activity Directions (Victoria)** some facilities have a patron cap that is less than the number of people allowed under the density quotient.*

- (14A) Despite subclauses 6(12) and 6(13), an employer is not required to comply with the density quotient in respect of:

- (a) any shared spaces in **schools**, non-school senior secondary providers, **childcare or early childhood services**, or **higher education services** used by students or children, including classrooms; and
- (b) clinical areas of a hospital; and

- (c) any office area that is not accessible by members of the public, including private offices, open plan offices, internal meeting rooms and shared spaces such as kitchens, lunchrooms and bathrooms; and

Note: an office area is considered not accessible by members of the public where an unaccompanied member of the public is not allowed or unable to access that area.

- (d) a **court or tribunal** building when in use for the ordinary purposes of courts or tribunals; and
- (e) Parliament House when it is used for the ordinary purposes of the Parliament of Victoria.

*Note 1: in relation to a school, non-school senior secondary provider, education and care service, childcare or early childhood service, or higher education service, spaces for the purpose of student and children use (such as classrooms, hallways and gymnasiums) are not subject to the density quotient. Office areas (including shared spaces that form part of an office area such as kitchens, lunchrooms and bathrooms) used only by staff that are not publicly accessible are also not subject to the density quotient. However, the density quotient applies to any publicly accessible areas (including in relation to a school, non-school senior secondary providers, or childcare or early childhood service, or higher education service), and any such publicly accessible areas that are subject to the **signage requirements** under subclause (15).*

*Note 2: in relation to a school, non-school senior secondary provider, childcare or early childhood service, or higher education service using facilities other than the school, childcare or higher education service premises, the density quotient of the relevant facility and the relevant requirements of the facility's COVIDSafe Plan will apply to the school, non-school senior secondary provider, childcare or early childhood service, or higher education service when using that facility. As an alternative to using the facility's COVIDSafe Plan, the school, non-school senior secondary provider, childcare or early childhood service, or higher education service may apply their own COVIDSafe Plan to the use of the facility, so long as it has been adjusted so that it is fit for purpose taking into account the unique features of the relevant facility. If the facility is being used exclusively by a single school, non-school senior secondary provider, childcare or early childhood service, or higher education service for educational purposes, the restrictions and guidance on teachers, staff, students and children under the **Restricted Activity Directions (Victoria)** apply in relation to the school, non-school senior secondary provider, childcare or early childhood service, or higher education service having exclusive use of that facility.*

Note 3: in relation to a hospital, clinical areas including emergency department waiting rooms and hospital wards are areas of a hospital that the density quotient does not apply to, however, other non-clinical areas of the hospital are subject to the density quotient where practicable.

Signage requirements (signage requirement)

- (15) Where a Work Premises has a publicly accessible space to which the density quotient applies, an employer must display a sign at each public entry to each such space that includes a statement specifying the maximum number of

members of the public that may be present in the space at a single time, being the number permitted by the density quotient, rounded down to the nearest whole number.

Example: if an area is 8.5 metres long and 4.5 metres wide, its total space is 38.25 square metres. Its density quotient is 19.125. The sign should state that the maximum number of members of the public that may be present in the space at a single time is 19.

- (16) A person who owns, operates or controls a market stall, market or retail shopping centre must:
- (a) limit the number of members of the public permitted by the density quotient as it applies respectively to the market stall, market or the retail shopping centre; and
 - (b) use reasonable endeavours to implement relevant recommendations by the Victorian Government to manage public health risks arising out of the operation of the facility.
- (17) Where any other Directions currently in force require a face covering to be worn in a Work Premises or part of a Work Premises:
- (a) an employer in relation to that Work Premises; or
 - (b) a person who owns, operates or controls that Work Premises,
- must display a sign at each public entry advising that each person entering the Work Premises must wear a face covering, unless an exemption under a Direction currently in force applies.

Cleaning requirements (cleaning requirement)

- (18) An employer must take all reasonable steps to ensure that shared spaces at which work is performed and areas accessible to members of the public at any Work Premises are **cleaned** on a regular basis, including:
- (a) frequently touched surfaces, including toilets and handrails, are cleaned at least twice on any given day; and
 - (b) surfaces are cleaned when visibly soiled; and
 - (c) if a function is to occur, a reasonable period of time has elapsed since the conclusion of any earlier function to allow for cleaning in between the functions; and
 - (d) surfaces accessible to a particular group are cleaned between groups; and
- Example: cleaning surfaces between shifts of workers.*
- (e) surfaces are cleaned immediately after a spill on the surface.
- (19) To ensure a surface is cleaned for the purposes of these directions, a person must wipe the surface with a disinfectant:
- (a) the label of which states a claim by the manufacturer that the disinfectant has anti-viral properties; or
 - (b) made by a person according to instructions issued by the Department.

- (20) A person who owns, operates or controls a market stall, market or retail shopping centre must comply with the cleaning requirement respectively for the market stall, market or the common areas of the retail shopping centre.

7 Responding to a suspected case of SARS-CoV-2 in a Work Premises

- (1) An employer must not require a worker to perform work at a Work Premises if the worker is displaying one or more SARS-CoV-2 Symptoms.
- (2) As soon as practicable after becoming aware of a suspected case in a worker who has attended a Work Premises in the period commencing 48 hours prior to the onset of symptoms, an employer must:
- (a) advise the worker to **self-isolate** immediately and support the worker in doing so, by either:
- (i) directing the worker to travel home immediately (and providing support to the worker to do so); or
- (ii) where the worker is unable to travel home immediately, directing the worker to isolate themselves at the Work Premises and, whilst doing so, to wear a face covering and remain at least 1.5 metres from any other person at the Work Premises, until the worker can return home later that day to self-isolate; and

Note: the worker should isolate in a separate room from other persons, where possible.

- (b) advise the worker to be tested for SARS-CoV-2 as soon as practicable, and to self-isolate whilst awaiting the result of that test; and
- (c) take all reasonably practicable steps to manage the risk posed by the suspected case, including but not limited to:
- (i) cleaning areas of the Work Premises used by the suspected case (including their personal workspace and any areas in the Work Premises frequently used by the suspected case);
- (ii) cleaning high-touch surfaces at the Work Premises likely to have been frequented by the suspected case; and

Examples: lift buttons, door handles, washroom facilities, kitchen facilities, water coolers. For further information, see the guidance at www.dhhs.vic.gov.au/cleaning-and-disinfecting-reduce-covid-19-transmission-tips-non-healthcare-settings, as amended or replaced from time to time by the Victorian Government.

- (d) ensure appropriate records are maintained in accordance with clause 6(6) in order to support contact tracing if the suspected case becomes a confirmed case, particularly from the period commencing 48 hours prior to the onset of symptoms in the suspected case; and

Note: this will include, for example, rosters and worker details, and details of all visitors to the Work Premises, to ascertain which persons were present at the Work Premises and who they may have come into contact with.

- (e) inform all workers (including the **health and safety representative**) to be vigilant about the onset of symptoms of SARS-CoV-2 and advise all workers to be tested for SARS-CoV-2 and self-isolate if they become symptomatic.

8 Responding to a confirmed case of SARS-CoV-2 in a Work Premises

- (1) In these directions, in respect of a worker who has tested positive to SARS-CoV-2, **Relevant Period** means the period commencing 48 hours prior to:
 - (a) the onset of symptoms of SARS-CoV-2 in the worker, if symptomatic; or
 - (b) the worker having been tested for SARS-CoV-2, if asymptomatic, and up to the **diagnosed person** receiving clearance from the Department.
- (2) A worker who has received a positive test result for SARS-CoV-2 must, as soon as practicable, notify the employer of any Work Premises which the worker has attended in the Relevant Period.
- (3) As soon as practicable after becoming aware of a confirmed case who has attended the Work Premises in the Relevant Period, the employer must:
 - (a) notify the Department and WorkSafe in accordance with the **Occupational Health and Safety (COVID-19 Incident Notification) Regulations 2020** and the health and safety representative at the Work Premises; and
 - (b) to the extent not already completed, direct the **diagnosed worker** not to attend the Work Premises and advise them to self-isolate in accordance with clause 7(2)(a); and
 - (c) undertake a risk assessment to determine whether the Work Premises (or the relevant part of the Work Premises in which the diagnosed worker worked in the Relevant Period) must be closed to allow cleaning and contact tracing to occur or whether the risk can be managed whilst the Work Premises (or part of it) continues to operate; and
 - (d) undertake a comprehensive clean of the Work Premises (or the relevant part of the Work Premises in which the diagnosed worker worked in the Relevant Period, and any high touch areas likely to have been touched by the diagnosed worker) in accordance with guidelines published by the Department; and
 - Note: online guidance from the Department can be obtained from the following link: www.dhhs.vic.gov.au/cleaning-and-disinfecting-reduce-covid-19-transmission-tips-non-healthcare-settings, as amended or replaced from time to time by the Victorian Government.*
- (e) consult with the diagnosed worker and examine the employer's own records to determine any **close contacts** of the diagnosed worker at the Work Premises within the Relevant Period and, where any close contacts are identified and the employer has the relevant contact details of the close contact:

Note: for record-keeping obligations to assist with identification of close contacts and contact tracing, see clause 6(6).

- (i) if the close contact is a worker, direct them to leave the Work Premises and advise them to **self-quarantine**; and
- (ii) if the close contact is not a worker, issue them a written communication to recommend that they self-quarantine in accordance with guidance from the Department; and
- (f) notify all workers when a worker has tested positive to SARS-CoV-2; and
- (g) inform all workers (including health and safety representatives) to be vigilant about the onset of symptoms of SARS-CoV-2 and advise all workers to be tested for SARS-CoV-2 and self-quarantine if they become symptomatic; and
- (h) put in place appropriate control and/or risk management measures to reduce the risk of spreading SARS-CoV-2 at the Work Premises; and

Note: employers are encouraged to ensure that any risks identified from the confirmed case are addressed in these control measures.

Examples: increasing the implementation and enforcement of control measures with respect to PPE (such as face coverings) and physical distancing.

- (i) contact the Department (or other entity nominated by the Department on its website) and:
 - (i) notify it of the actions taken in accordance with subclause (3)(a) to (h); and
 - (ii) provide it with a copy of the risk assessment conducted in accordance with subclause (3)(c); and
 - (iii) provide the Department (or other entity nominated by the Department) with contact details of any close contacts (whether or not workers) identified pursuant to subclause (3)(e); and
 - (iv) comply with any further directions given by the Department or WorkSafe in relation to closure of the Work Premises (or part of the Work Premises) and/or cleaning; and
- (j) where the Work Premises (or part of the Work Premises) is closed, not re-open that Work Premises (or that part of the Work Premises which was closed) until all of the following have occurred:
 - (i) the employer has complied with all of its obligations under subclause (3)(a) to (i); and
 - (ii) the Department has completed all relevant contact tracing; and
 - (iii) the Department has given clearance for the Work Premises to re-open.

Note: employers must comply with their obligations under occupational health and safety laws, including notifying WorkSafe in accordance with the

Occupational Health and Safety (COVID-19 Incident Notification) Regulations 2020.

9 Relationship with other directions

If there is any inconsistency between these directions and a direction or other requirement contained in a **Direction and Detention Notice**, these directions are inoperative to the extent of the inconsistency.

10 Definitions

For the purposes of these directions:

- (1) **Authorised Officer** has the same meaning as in the **PHW Act**;
- (2) **Care Facilities Directions** means the **Care Facilities Directions (No 27)** as amended or replaced from time to time;
- (3) **care facility** has the same meaning as in the **Care Facilities Directions**;
- (4) **childcare or early childhood service** means onsite early childhood education and care services or children's services provided under the:
 - (a) **Education and Care Services National Law** and the **Education and Care Services National Regulations**, including long day care services, kindergartens and/or preschool and family daycare services, but not including outside **school** hours care services; and
 - (b) **Children Services Act 1996**, including limited hours services, budget based funded services, occasional care services, early childhood intervention services, mobile services and (if applicable) school holiday care programs;
- (5) **cleaned** has the meaning in clause 6(19);
- (6) **cleaning requirement** has the meaning in clause 6(18) to (20) (both inclusive);
- (7) **close contact** means any person who has had face-to-face contact of any duration, or who has shared a closed space for more than one hour, with a **confirmed case** during the **Relevant Period**;
- (8) **commercial passenger vehicle service** has the meaning given in section 4 of the **Commercial Passenger Vehicle Industry Act 2017**;
- (9) **common areas** of a **retail shopping centre** has the same meaning as in the **Retail Leases Act 2003**;
- (10) **confirmed case** means a diagnosis of **SARS-CoV-2** in a **worker** at the **Work Premises**;
- (11) **court or tribunal** means a judicial and/or administrative review body established pursuant to legislation;
- (12) **COVIDSafe Plan** has the meaning in clause 6(2);
- (13) **Department** means the Department of Health;

- (14) **diagnosed person** has the same meaning as in the **Diagnosed Persons and Close Contacts Directions**;
- (15) **Diagnosed Persons and Close Contacts Directions** means the **Diagnosed Persons and Close Contacts Directions (No 21)** as amended or replaced from time to time;
- (16) **diagnosed worker** means a **worker** who is a **diagnosed person**;
- (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 **Work Premises** (or a Work Premises) and includes a person who is self-employed;
- (21) **face covering** means a fitted face mask that covers the nose and mouth to provide the wearer protection against infection;
- (22) **food and drink facility** has the same meaning as in the **Restricted Activity Directions (Victoria)**;
- (23) **health and safety representative** has the same meaning as in the **OHS Act**;
- (24) **higher education services** means educational services provided at or by a university, vocational education and training providers (including registered training organisations), technical and further education (TAFE) institutes, adult community and further education, and other post-compulsory education or training;
- (25) **indoor space** has the same meaning as in the **Restricted Activity Directions (Victoria)**;
- (26) **indoor zone** means a section of an **indoor space** that:
 - (a) is designated by the person who owns, controls or operates the indoor space as being for the exclusive use of specified **members of the public**; and
 - (b) is delineated by temporary barriers, tape or other clearly visible markings or means;
- (27) **inspector** has the same meaning as in the **OHS Act**;
- (28) **market** means a public market, whether indoor or outdoor, including a food market;
- (29) **member of the public** is a person but does not include:
 - (a) a person who is an **employee** of an operator of the facility or venue; or
 - (b) any other person who attends the facility or venue that is reasonably necessary for providing a service at the facility or venue;
- (30) **OHS Act** means the **Occupational Health and Safety Act 2004**;

- (31) **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. Also, in some circumstances, the **Department** 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.*
- (32) **outdoor space** has the same meaning as in the **Restricted Activity Directions (Victoria)**;
- (33) **owner** has the same meaning as in the **Commercial Passenger Vehicle Industry Act 2017**;
- (34) **passenger services** has the same meaning as in the **Transport Integration Act 2010**;
- (35) **PHW Act** means the **Public Health and Wellbeing Act 2008**;
- (36) **place of worship** has the same meaning as in the **Heritage Act 2017**;
- (37) **PPE** means personal protective equipment;
- (38) **premises** has the same meaning as in the **PHW Act**;
- (39) **reasonably practicable** is to have its ordinary and common sense meaning;
- (40) **records requirement** has the meaning in clause 6(6) to (9) (both inclusive);
- (41) **Relevant Period** has the meaning given in clause 8(1);
- (42) **Restricted Activity Directions (Victoria)** means the **Restricted Activity Directions (No 14)** as amended or replaced from time to time;
- (43) **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;
- (44) **retail shopping centre** has the same meaning as in the **Retail Leases Act 2003**;
- (45) **SARS-CoV-2 Symptoms** means symptoms consistent with **SARS-CoV-2**, including but not limited to the following:
- (a) a fever ($\geq 37.5^{\circ}\text{C}$) or consistent fever of less than 37.5°C (such as night sweats, chills);
 - (b) acute respiratory infection (such as cough, shortness of breath, sore throat);
 - (c) loss of smell; and

- (d) loss of taste;
- (46) **school** means a registered school as defined in the **Education and Training Reform Act 2006**;
- (47) **self-isolate** has the same meaning as in the **Diagnosed Persons and Close Contacts Directions**;
- (48) **self-quarantine** has the same meaning as in the **Diagnosed Persons and Close Contacts Directions**;
- (49) **Service Victoria** has the same meaning as in the **Service Victoria Act 2018**;
- (50) **Service Victoria CEO** has the same meaning as in the **Service Victoria Act 2018**;
- (51) **signage requirement** has the meaning in clauses 6(15), (16) and (17);
- (52) **Stay Safe Directions (Victoria)** means the **Stay Safe Directions (Victoria) (No 20)** as amended or replaced from time to time;
- (53) **suspected case** means a person who is displaying one or more **SARS-CoV-2 Symptoms**;
- (54) **vehicle** has the same meaning as in the **PHW Act**;
- (55) **Workplace (Additional Industry Obligations) Directions** means the **Workplace (Additional Industry Obligations) Directions (No 22)** as amended or replaced from time to time;
- (56) **Work Premises** means the **premises** of an **employer** in which work is undertaken, including any **vehicle** whilst being used for work purposes, but excluding an **employee's** ordinary place of residence;
- Note: this includes a community facility such as a community centre or community hall, or a public library, or a **place of worship**.*
- (57) **worker** includes **employees**, subcontractors (and their employees), volunteers and any other person engaged or permitted by an **employer** to perform work;
- (58) **WorkSafe** means WorkSafe Victoria.

11 Penalties

- (1) 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.

Note: section 209 of the PHW Act provides for infringement notices to be served on any person who without reasonable excuse has refused or failed 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. The amount payable pursuant to the infringement notice varies depending on the nature of the failure or refusal and the age of the person who refuses or fails to comply.



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.

30 April 2021