

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

Restricted Activity Directions (Restricted Areas) (No 17)

Public Health and Wellbeing Act 2008 (Vic)
Section 200

I, Associate Professor N. Deborah Friedman, Acting Chief Health Officer, consider it reasonably necessary to eliminate or reduce the risk to public health—and reasonably necessary to protect public health—to give the following directions pursuant to section 200(1)(b) and (d) of the **Public Health and Wellbeing Act 2008** (Vic) (**PHW Act**):

1 Preamble

- (1) The purpose of these directions is to restrict the operation of certain businesses and undertakings in the **Restricted Area** to address the serious public health risk posed to Victoria by severe acute respiratory syndrome coronavirus 2 (**SARS-CoV-2**).
- (2) These directions must be read together with the **Directions currently in force**.
- (3) These directions replace the **Restricted Activity Directions (Restricted Areas) (No 16)**.

2 Citation

These directions may be referred to as the **Restricted Activity Directions (Restricted Areas) (No 17)**.

3 Revocation

The **Restricted Activity Directions (Restricted Areas) (No 16)** are revoked at 11:59:00pm on 23 September 2021.

4 Restricted activity period

For the purposes of these directions, the **restricted activity period** is the period beginning at 11:59:00pm on 23 September 2021 and ending at 11:59:00pm on 21 October 2021.

5 Authorised Work Premises

- (1) For the purposes of this clause, an **Authorised Work Premises** is a **Work Premises** at which:
 - (a) an **Authorised Provider** operates; or

- (b) an **Authorised Worker** performs work.
- (2) Subject to subclause (3), a person who owns, controls or operates an Authorised Work Premises in the Restricted Area may operate that **premises** during the restricted activity period to the extent permitted by the Directions currently in force.

*Note: restrictions on Authorised Work Premises include the relevant restrictions applying under the **Workplace Directions**, which include requirements for work premises in relation to **face coverings**, the density quotient, signage and cleaning requirements and **COVIDSafe Plans**, and the **Workplace (Additional Industry Obligations) Directions**.*

- (3) Despite subclause (2), a person who owns, controls or operates an Authorised Work Premises in the Restricted Area may also operate that premises:
 - (a) for the purpose of **essential maintenance**; or
 - (b) by permitting employees to work from the place where they ordinarily reside; or
 - (c) as required or authorised by law; or
 - (d) in an emergency; or
 - (e) for the reason outlined in the clause 6(2)(b); or
 - (f) as otherwise permitted by the Directions currently in force.
- (4) If a work premises includes multiple functions and some of those functions are functions which are prohibited under these directions or any other Directions currently in force, then only those functions which are not prohibited may be undertaken.
- (5) Where there is any inconsistency between the general obligations and the specific obligations set out in the Directions currently in force, the specific obligations will prevail.

6 Closed work premises

- (1) Subject to subclause (2), a person who owns, controls or operates a **closed work premises** in the Restricted Area must not permit persons to attend that premises during the restricted activity period.
- (2) Despite subclause (1), a person who owns, controls or operates a closed work premises in the Restricted Area may permit persons to attend that premises or operate the premises:
 - (a) for the purpose of essential maintenance; or
 - (b) to ensure that the premises is closed safely for the duration of the restricted activity period; or
 - (c) as required or authorised by law; or
 - (d) in an emergency; or
 - (e) for the purposes of an exception in clause 7; or

- (f) as otherwise permitted by the Directions currently in force.

7 Exceptions

Permitted operations – physical recreational facilities

- (1) A person who owns, controls or operates a **physical recreational facility** in the Restricted Area may operate that facility during the restricted activity period only for the purposes of:
- (a) the exclusive use of training for **professional or high-performance sports persons** provided that only persons who are necessary for the conduct of the training are permitted to attend the facility; or
 - (b) operating that facility if it is necessary for an Authorised Worker to perform work that is authorised at that site with only the minimum number of persons necessary in attendance onsite and where the purpose of their attendance is for professional sport; or
 - (c) conducting a professional sporting event that has been approved to proceed with no spectators by the Chief Health Officer through the **Public Event Framework**; or
 - (d) for the provision of hydrotherapy services specified in clause 7(3); or
 - (e) broadcasting an online class from the physical recreational facility, provided that the total number of persons at the facility for the purpose of broadcasting the online class is no more than five.

*Note: nothing in these directions is intended to prevent or otherwise affect the operation or use of a facility for emergency refuge, shelter or relief purposes in accordance with the emergency management arrangements under the **Emergency Management Act 2013**.*

- (2) A physical recreational facility means any of the following, whether operated on a for profit or not-for-profit basis:
- (a) a facility used predominantly for indoor sport or physical recreation;
Examples: gymnasium, health club, fitness centre, yoga studio, pilates studio, barre studio, dance studio, spin facility, indoor basketball court, indoor climbing facility, squash court, table tennis centre.
 - (b) a facility used predominantly for outdoor sport or physical recreation;
Examples: golf club, tennis club, outdoor basketball courts, go kart track, rifle range, equestrian centre, mini golf, paint ball, lawn bowling, water skiing.
 - (c) a **personal training facility**;
 - (d) a **cardio or strength training facility**;
Examples: a cardio or strength facility featuring cardio equipment (such as exercise bikes, elliptical trainers, steppers and rowing machines), free weights, kettlebells and weight and/or strength training equipment and machines. A cardio or strength training facility may be a stand-alone facility or part of another facility (such as a gymnasium, health club, fitness centre or personal training facility).

- (e) an indoor skatepark;
- (f) a trampolining centre;
- (g) a swimming pool, **hydrotherapy pool**, spa, sauna, steam room or **spring**;

but does not include:

- (h) a skatepark in an **outdoor space**;
- (i) outdoor communal exercise equipment;
- (j) a **creative arts facility**.

Note: a skatepark in an outdoor space and outdoor communal exercise equipment are part of the definition of 'community facility'.

Permitted operations – non-residential swimming pool or hydrotherapy pool for hydrotherapy services

(3) A person who owns, controls or operates a swimming pool or a hydrotherapy pool at a non-residential premises in the Restricted Area may operate that facility during the restricted activity period for the purpose of the provision of hydrotherapy services to **members of the public** at the facility if the person ensures that:

- (a) no access is permitted to saunas within the facility; and
- (b) any member of the public accessing hydrotherapy services is accompanied by:
 - (i) a health **worker**; or
 - (ii) a carer, parent or guardian (if required); and
- (c) no group hydrotherapy services are permitted; and
- (d) the number of persons permitted at any one time in any water or non-water part of the facility is the lesser of:
 - (i) 10 in any pool; and
 - (ii) in respect of the water and non-water parts of the facility, the number that is the number calculated by dividing the total accessible space (measured in square metres) by 8; and

Note: the limits on persons under paragraph (d) apply to all persons, including members of the public accessing hydrotherapy services and any other person, such as a health worker, accompanying them.

- (e) all reasonable endeavours are used to implement relevant recommendations by the Victorian Government to manage public health risks arising out of the operation of the facility.

Permitted operations – community facilities

(4) A person who owns, controls or operates a **community facility** in the Restricted Area may operate that facility during the restricted activity period only for the purposes of:

- (a) conducting a wedding or funeral that is compliant with the requirements of the **Stay at Home Directions (Restricted Areas)**; or
- (b) hosting an essential public support service (whether that service is provided on a voluntary basis or otherwise), with only the minimum number of persons required to conduct and/or facilitate the essential public support service and with a maximum of 10 persons attending the community facility to receive the essential public support service at any one time; or

Examples: a food bank or a service for homeless persons.

Note 1: the persons required to conduct and/or facilitate the service are not included in the maximum of 10 persons.

Note 2: an essential public support service does not include people gathering for worship or prayer.

- (c) contactless collection or delivery of pre-ordered goods; or

Example: a library is permitted to operate for the purpose of a 'click and collect' service to facilitate the loaning of and/or returning of books, toys and other similar goods.

Note: a librarian, or other staff that will be required to facilitate a 'click and collect' service is permitted to leave their premises to attend the library for these purposes.

- (d) providing the facility for the exclusive use by a single **school** at any one time for the purpose of conducting **Senior Secondary examinations**.

(4A) For the purposes of subclause (4)(d), a person who owns, controls or operates a community facility in the Restricted Area is required to comply with relevant restrictions that apply under the **Workplace Directions** (including requirements in relation to face coverings, signage and COVIDSafe Plans), but is exempt from the density quotient requirement in clause 6(18) of the **Workplace Directions**.

(5) Despite subclause (4), a person who owns, controls or operates a community facility in the Restricted Area may operate that facility during the restricted activity period if:

- (a) it is necessary for an Authorised Worker to perform work that is authorised at that site, with only the minimum number of persons necessary in attendance onsite; or
- (b) the community facility is a **playground**, that facility may operate for its ordinary use by members of the public under 12 years of age, in accordance with the requirements of the **Stay at Home Directions (Restricted Areas)**; or

*Note: playgrounds are open to children under 12 years of age to support young children's mental health and sensory and physical development. Parents supervising children must still comply with the public gathering limit and face covering requirements specified in the **Stay at Home Directions (Restricted Areas)**.*

- (c) the community facility is a skatepark in an outdoor space or outdoor communal exercise equipment and operates for its ordinary use by members of the public and in accordance with the requirements of the **Stay at Home Directions (Restricted Areas)**.

*Note: nothing in these directions is intended to prevent or otherwise affect the operation or use of a facility for emergency refuge, shelter or relief purposes in accordance with the emergency management arrangements under the **Emergency Management Act 2013**.*

- (6) A **community facility** means any of the following, whether operated on a for profit or not-for-profit basis:
 - (a) a community centre or community hall;
 - (b) a public library (including a toy library, but not the **State Library**);
 - (c) a youth centre;
 - (d) a playground;
 - (e) a skatepark in an outdoor space;
 - (f) outdoor communal exercise equipment;but does not include:
 - (g) a creative arts facility;
 - (h) a physical recreational facility;
 - (i) a swimming pool facility, hydrotherapy pool, spa, sauna, steam room or spring.

Permitted operations — educational facilities

- (7) A person who owns, controls or operates an educational facility in the Restricted Area may operate that facility during the restricted activity period only for the purposes of:
 - (a) providing primary school or secondary school educational services (including at a school or non-school senior secondary provider and outside school hours care services) where education is being provided to:
 - (i) a **vulnerable child or young person**; or
 - (ii) a child, children or young person who has:
 - (A) a single parent or carer and that person is an Authorised Worker and is working outside of the home and is unable to make alternative supervision arrangements for that child, children or young person; or
 - (B) two parents or carers and both of those people are Authorised Workers and both are working outside of the home and are unable to make alternative supervision arrangements for that child, children or young person; or

- (iii) secondary school students attending an assessment that has been approved to proceed onsite as specified in the **Authorised Provider and Authorised Worker List**; or
- (b) providing childcare or early childhood education services where the education service is being provided to:
 - (i) a vulnerable child or young person in a **childcare or early childhood education service**; or
 - (ii) a child, children or young person who has:
 - (A) a single parent or carer, and that person is:
 1. working outside of the home and is unable to make alternative supervision arrangements for that child, children or young person; or
 2. working at home and is unable to make alternative supervision arrangements for that child, children or young person; or
 - (B) two parents or carers and one parent or carer is an Authorised Worker or work for an authorised provider and holds an Authorised Worker Permit and is:
 1. working outside of the home and are unable to make alternative supervision arrangements for that child, children or young person; or
 2. working at home and are unable to make alternative supervision arrangements for that child, children or young person; or
- (c) providing adult education or higher education services to students conducting final year assessments for a course accredited by the Tertiary Education Quality and Standards Agency where it is not reasonably practicable for the student to complete the assessments by any alternative means by 31 December 2021.
- (8) A person who is an exception to holding a current Authorised Worker Permit pursuant to clauses 5(6) and 5(7) of the **Workplace Directions** is not required to present an Authorised Worker Permit to a childcare or early childhood education service provider, provided they:
 - (a) have photographic personal identification issued by the organisation or body which employs or engages them and which identifies the person's place of work in that capacity; and
 - (b) must, on request, produce the photographic personal identification which identifies the person's place of work to a childcare or early childhood education service provider.

Permitted operation – entertainment facilities

- (9) A person who owns, controls or operates an **entertainment facility** in the Restricted Area may operate that facility during the restricted activity period only for the purposes of conducting an event that has been approved to

proceed with no spectators by the Chief Health Officer through the Public Event Framework, or for broadcasting a performance in accordance with the requirements in subclause (11).

- (10) Despite subclause (9), other goods and services are not permitted to be provided at this facility during the approved event or broadcast, other than to the extent necessary to provide necessary goods and services to persons permitted to attend the facility in order to conduct the approved event, or broadcast.

*Note: nothing in these directions is intended to prevent or otherwise affect the operation or use of a facility for emergency refuge, shelter or relief purposes in accordance with the emergency management arrangements under the **Emergency Management Act 2013**.*

- (11) A person who owns, controls or operates an **entertainment facility** in the Restricted Area may operate that facility for the purpose of broadcasting a performance from that entertainment facility, provided that the total number of persons attending the entertainment facility for the purpose of broadcasting the performance is no more than five.
- (12) An entertainment facility means any of the following, whether operated on a for profit or not-for-profit basis:
- (a) a theatre;
 - (b) a cinema;
 - (c) a music hall, concert hall or auditorium;
 - (d) a gallery or a museum;
 - (e) the State Library;
 - (f) an arena or stadium;
 - (g) an **animal facility**;
 - (h) a convention centre.

Permitted operation – places of worship

- (13) A person who owns, controls or operates a **place of worship** in the Restricted Area may operate that place of worship during the restricted activity period only for the purpose of:
- (a) broadcasting (live or otherwise) via electronic means a religious ceremony, with only the minimum number of persons required to conduct the ceremony and facilitate the broadcasting, up to a maximum of five people in attendance; or
 - (b) hosting an essential public support service (whether that service is provided on a voluntary basis or otherwise), with only the minimum number of persons required to conduct and/or facilitate the essential public support service and with a maximum of 10 persons attending the place of worship to receive the essential public support services at any one time; or

Examples: a food bank or a service for homeless persons.

Note 1: the persons required to conduct and/or facilitate the service are not included in the maximum of 10 persons.

Note 2: an essential public support service does not include people gathering for worship or prayer.

- (c) conducting a wedding or funeral that is compliant with the requirements of the **Stay at Home Directions (Restricted Areas)**.

Permitted operation – retail facility

- (14) A person who owns, controls or operates a **retail facility** that would otherwise be a closed work premises in the Restricted Area may operate that facility during the restricted activity period only for the purposes of contactless collection or delivery of pre-ordered goods.

Example: pre-ordered goods may be ordered by a telephone call or by placing a 'click and collect' order using the Internet.

Permitted operation – pubs, bars, clubs, nightclubs and hotels

- (15) A person who owns, controls or operates a **licensed premises** in the Restricted Area may operate that premises during the restricted activity period only for the purposes of:
 - (a) operating as a **bottle shop** for the purposes of contactless collection or delivery of pre-ordered goods; or
 - (b) providing food or drink, for takeaway purposes only; or
 - (c) providing accommodation in accordance with subclause (20).

*Note: nothing in these directions is intended to prevent or otherwise affect the operation or use of a facility for emergency refuge, shelter or relief purposes in accordance with the emergency management arrangements under the **Emergency Management Act 2013**.*

- (16) A licensed premises means a business characterised as a pub, bar, club, **nightclub** or hotel that supplies alcohol under a **general licence**, an **on-premises licence**, a **late night licence**, a **producer's licence**, a **club licence**, a **packaged liquor licence**, or **restaurant and café licence**.

Permitted operation – food and drink facilities

- (17) A person who owns, controls or operates a **food and drink facility** in the Restricted Area may operate that facility during the restricted activity period only for the purposes of takeaway collection or delivery of pre-ordered goods.
- (18) A person who owns, controls or operates a **food court** is not permitted to open seated areas within an **indoor space** or **outdoor space** which is accessible to members of the public.
- (19) Despite subclause (17), a person who owns, controls or operates a food court may operate that food court for the purposes of takeaway collection or delivery of pre-ordered goods only.

Note: nothing in these directions is intended to prevent or otherwise affect the operation or use of a facility for emergency refuge, shelter or relief purposes in accordance with

*the emergency management arrangements under the **Emergency Management Act 2013**.*

- (20) A food and drink facility means any of the following, whether operated on a for profit or not-for-profit basis:
- (a) a cafe;
 - (b) a restaurant;
 - (c) a fast-food store;
 - (d) a cafeteria;
 - (e) a canteen;
 - (f) a winery;
 - (g) a food court.

Note: a food and drink facility includes a food and drink facility at a stadium or arena.

Permitted operation – accommodation facilities

- (21) A person who owns, controls or operates an **accommodation facility** in the Restricted Area may operate that facility during the restricted activity period only for the purposes of providing accommodation:
- (a) to a person whose place of residence is the accommodation facility; or
 - (b) to a person who is ordinarily a resident of Victoria but has no permanent place of residence in Victoria; or
 - (c) to a person who has a permanent place of residence in Victoria, but that place is temporarily unavailable; or
 - (d) to a person who has no permanent place of residence in Victoria because their permanent place of residence is interstate or overseas; or
 - (e) to a person who requires accommodation, on a temporary basis, due to their travel within the Restricted Area for work purposes related to an Authorised Provider or their status as an Authorised Worker; or
 - (f) to a person who was a temporary guest of the accommodation facility on the date that these directions were given; or
 - (g) to a person who requires emergency accommodation, including in relation to family violence and other vulnerable groups; or
 - (h) to a person who requires accommodation for work purposes, where their work is for the purposes of responding to the state of emergency in existence under the PHW Act; or
 - (i) to a person who is subject to a **Direction and Detention Notice** or the **Diagnosed Persons and Close Contacts Directions**.
- (22) For the purposes of this clause accommodation facility includes, but is not limited to, any of the following, whether operated on a for profit or not-for-profit basis:

- (a) a camping ground;
- (b) a caravan park;
- (c) a hotel;
- (d) a hostel;
- (e) a bed and breakfast;
- (f) a private holiday rental facility, including Airbnbs;
- (g) a motel;
- (h) a serviced apartment.

Permitted operation – real estate inspections

(23) An **estate agent** that operates in the Restricted Area is permitted to arrange an inspection of **real estate** for the prospective sale of the property or for end of lease activities provided that the inspection must:

- (a) be arranged and occur on a private appointment basis; and
- (b) only take place while the persons that ordinarily reside at the premises are not present; and
- (c) only be attended by members of one household, while the estate agent remains outside the premises.

Note: an inspection can be arranged at any time in relation to the potential, or actual sale of real estate. Inspections of rental properties can only be arranged as part of end of lease activities.

8 Public Events

(1) For the purpose of this clause:

(a) **eligible public event** means an organised public gathering for a common purpose on a for profit or not-for-profit basis which is:

- (i) an event (or a series of events):
 - (A) conducted on a one-off or periodic basis; and
 - (B) open to members of the public; and
 - (C) which may be subject to specific licences, approvals or permits; and

Note: the person must continue to apply for and comply with all required licences, approvals and permits.

- (D) publicly announced or advertised; and
- (E) which may be in a facility, venue or space where such an event (or a series of events) forms part of the routine operations, use, activities or services of the facility, venue or space; or

- (ii) an event (or series of events) deemed by the Victorian Government to be a State-critical public event (or a series of events),

Examples: an exhibition, sport event, festival, fair, parade, performance or trade show.

but does not mean:

- (iii) an ad hoc public gathering in a public place;
- (iv) an ad hoc or routine public gathering in a facility, venue or space which forms part of the ad hoc or routine operations, use, activities or services of the facility, venue or space;

Note: most public gatherings in a facility, venue or space (including any indoor space or outdoor space) are expected to remain subject to the requirements in these directions, including clause 7(16) – (18) (food and drink facilities).

- (v) a private gathering;
- (vi) a wedding, funeral or end of life activity;
- (vii) a routine religious gathering or ceremony,

to which these directions and the **Stay at Home Directions (Restricted Areas)** otherwise continue to apply; and

- (b) **exempt public event** means an eligible public event which, subject to the process described in the Public Event Framework, the Chief Health Officer or Deputy Chief Health Officer has exempted from a requirement in the Directions currently in force in accordance with subclause (3) or the equivalent subclause in any **revoked Restricted Activity Direction**.

- (2) A person who arranges to meet or organises or intentionally attends a public gathering for a common purpose in a public place is not required to comply with the requirements of the Directions currently in force in respect of such a public gathering:
 - (a) if the public gathering is an exempt public event; and
 - (b) to the extent of an **exemption** granted in respect of that exempt public event (including any conditions on an exemption), unless the relevant exemption for the exempt public event is suspended in accordance with subclause (6) during the restricted activity period.
- (3) The Chief Health Officer or Deputy Chief Health Officer may exempt an eligible public event (or class of eligible public events) from any requirement of the Directions currently in force if satisfied that the exemption is appropriate, having regard to:
 - (a) the need to protect public health; and
 - (b) the principles in sections 5 to 10 of the PHW Act, as appropriate.
- (4) An exemption:
 - (a) must be given in writing; and

- (b) must be published at www.coronavirus.vic.gov.au/public-events, as amended from time to time by the Victorian Government with the approval of the Chief Health Officer or Deputy Chief Health Officer; and
 - (c) must specify each requirement in the Directions currently in force to which, subject to subclause (d), an exemption is granted; and
 - (d) may impose conditions on an exemption.
- (5) An exemption does not prevent:
- (a) the Chief Health Officer or Deputy Chief Health Officer exercising any power the Chief Health Officer or Deputy Chief Health Officer is authorised to exercise under the PHW Act; or
 - (b) an authorised officer from exercising any power the authorised officer is authorised to exercise under the PHW Act, including ensuring compliance with:
 - (i) an exemption granted (including any conditions on an exemption); or
 - (ii) the requirements of all other Directions currently in force.

Transitional provisions

- (6) Any exemption granted under any revoked Restricted Activity Direction continues to have effect but is suspended for the duration of the restricted activity period.

Note: events are not permitted to occur during the restricted activity period, but events approved for after the restricted activity period are not revoked by these directions.

- (7) Any application for an exemption made under any revoked Restricted Activity Direction continues to have effect.

Note: a person who has made an application for an exemption under previous directions will be contacted to confirm whether or not the application for exemption is still required.

9 Emergency use and operations

Nothing in these directions is intended to prevent or otherwise affect the operation of a facility in the Restricted Area where such use or operation is for emergency refuge, shelter or relief purposes in accordance with the emergency management arrangements under the **Emergency Management Act 2013**.

10 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.

11 Other definitions

For the purposes of these directions:

- (1) **accommodation facility** has the meaning in clause 7(21);
- (2) **animal facility** means the following:
 - (a) a **zoological park**;
 - (b) a wildlife centre;
 - (c) a petting zoo;
 - (d) an aquarium;
 - (e) an animal farm that is not being operated for the purpose of producing food;
- (3) **Area Directions** means the **Area Directions (No 20)** as amended or replaced from time to time;
- (4) **Authorised Provider** means a provider of goods or services as set out in the **Authorised Provider and Authorised Worker List**;
- (5) **Authorised Provider and Authorised Worker List** means the “Authorised Provider and Authorised Worker List” as amended from time to time by the Victorian Government with the approval of the Chief Health Officer or Deputy Chief Health Officer, available at www.coronavirus.vic.gov.au/authorised-provider-and-authorised-worker-list;
- (6) **Authorised Work Premises** has the meaning in clause 5(1);
- (7) **Authorised Worker** has the same meaning as in the **Workplace Directions**;
- (8) **Authorised Worker Permit** has the same meaning as in the **Workplace Directions**;
- (9) **bottle shop** means an area that is physically attached to a **licensed premises** where packaged alcohol is sold to be consumed off the **premises**;
- (10) **cardio or strength training facility** means a facility used predominantly for cardio, weight or strength training, including any cardio or strength training facility located wholly or partly within any other facility (including a **physical recreational facility**);
- (11) **childcare or early childhood education service** means onsite early childhood education and care services or children’s services provided under the:
 - (a) **Children’s 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; or
 - (b) **Education and Care Services National Law Act 2010** and the **Education and Care Services National Regulations 2011** including long day care services, kindergarten/preschool and family day care services, but does not include outside school hours care services;
- (12) **closed work premises** means a **work premises** that is not an **Authorised Work Premises**;

- (13) **club licence** has the same meaning as in the **Liquor Control Reform Act 1998**;
- (14) **community facility** has the meaning in clause 7(6);
- (15) **COVIDSafe Plan** has the same meaning as in the **Workplace Directions**;
- (16) **creative arts facility** means any of the following, whether operated on a for profit or not-for-profit basis:
 - (a) an art studio;
 - (b) a ceramics studio;
 - (c) a music room or studio;
 - (d) a rehearsal room or studio;
 but does not include:
 - (e) a **physical recreational facility**;
 - (f) a **community facility**;
 - (g) a **place of worship**;
- (17) **Diagnosed Persons and Close Contacts Directions** means the **Diagnosed Persons and Close Contacts Directions (No 27)** as amended or replaced from time to time;
- (18) **Direction and Detention Notice** means a notice given to a person requiring the person to be detained for a specified period;
- (19) **Directions currently in force** has the same meaning as in the **Stay at Home Directions (Restricted Areas)**;
- (20) **eligible public event** has the meaning in clause 8(1)(a);
- (21) **entertainment facility** has the meaning in clause 7(12);
- (22) **essential maintenance** means:
 - (a) treating or caring for animals or performing an animal rescue function;
or
 - (b) critical maintenance and safety works including to satisfy environmental obligations;
- (23) **estate agent** has the same meaning as in the **Estate Agents Act 1980**;
- (24) **exempt public event** has the meaning in clause 8(1)(b);
- (25) **exemption** means an exemption granted by the Chief Health Officer or the Deputy Chief Health Officer for an **eligible public event** or class of eligible public events under clause 8(3) of these directions or the equivalent provision in any **revoked Restricted Activity Direction**;
- (26) **face covering** has the same meaning as in the **Workplace Directions**;
- (27) **food and drink facility** has the meaning in clause 7(20);
- (28) **food court** has the same meaning as in the **Liquor Control Reform Act 1998**;

- (29) **general licence** has the same meaning as in the **Liquor Control Reform Act 1998**;
- (30) **hydrotherapy pool** means a pool designed to be used for hydrotherapy or rehabilitation purposes;
- (31) **indoor space** means an area, room or **premises** that is or are substantially enclosed by a roof and walls that are temporary (in a **physical recreational facility** or **food and drink facility** only) or 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;
- (32) **late night licence** has the same meaning as in the **Liquor Control Reform Act 1998**;
- (33) **licensed premises** has the meaning in clause 7(16);
- (34) **market** means a public market, whether indoor or outdoor, including a food market and includes individual stalls at a market;
- (35) **member of the public**, in relation to a facility or venue, means a person other than:
 - (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;
- (36) **nightclub** means a facility:
 - (a) to which a **late night licence** applies; and
 - (b) with a dancefloor; and
 - (c) which does not serve food prepared at the facility for consumption on the **premises**;
- (37) **on-premises licence** has the same meaning as in the **Liquor Control Reform Act 1998**;
- (38) **outdoor space** means a space that is not an **indoor space**;
- (39) **packaged liquor licence** has the same meaning as in the **Liquor Control Reform Act 1998**;
- (40) **personal training facility** means a business the predominant activity of which is to provide personal training services;
- (41) **physical recreational facility** has the meaning in clause 7(2);
- (42) **place of worship** has the same meaning as in the **Heritage Act 2017**;
- (43) **play centre** means a **premises**, whether indoor or outdoor, that has play equipment to be used predominantly by children under the age of 12 years, but does not mean a **playground**;
- (44) **playground** means outdoor play equipment in a public park that is accessible to **members of the public**, but does not mean a **play centre**;
- (45) **premises** has the same meaning as in the **PHW Act**;

- (46) **producer's licence** has the same meaning as in the **Liquor Control Reform Act 1998**;
- (47) **professional or high-performance sports person** means an individual who meets one or more of the following criteria:
- (a) perform a sporting activity in an open-aged national or international competition (at the highest level as identified by the recognised national body); or
 - (b) employed to perform a sporting activity as their primary source of income (e.g. employed by a professional club or recognised national body); or
 - (c) a National Institute Network Scholarship holder or equivalent level national categorised athlete;
- (48) **Public Event Framework** means the Public Event Framework available at www.coronavirus.vic.gov.au/public-events, as amended from time to time by the Victorian Government with the approval of the Chief Health Officer or Deputy Chief Health Officer;
- (49) **real estate** has the same meaning as in the **Estate Agents Act 1980**;
- (50) **restaurant and café licence** has the same meaning as in the **Liquor Control Reform Act 1998**;
- (51) **restricted activity period** has the meaning in clause 4;
- (52) **Restricted Area** has the same meaning as in the **Area Directions**;
- (53) **retail facility** means a **premises**, or part of a premises, at which a business operates to provide for the sale or hire of goods by retail or the retail provision of services and includes a **market, retail shopping centre** and supermarkets;
- (54) **retail shopping centre** has the same meaning as in the **Retail Leases Act 2003**;
- (55) **revoked Restricted Activity Directions** means any of the **Restricted Activity Directions (Victoria)**, the **Restricted Activity Directions (Regional Victoria)**, the **Restricted Activity Directions (Metropolitan Melbourne)**, the **Restricted Activity Directions (Non-Melbourne)**, or the **Restricted Activity Directions (Restricted Areas)**, that are no longer in force;
- (56) **school** means a registered school as defined in the **Education and Training Reform Act 2006**;
- (57) **Senior Secondary examination** means an examination relating to a senior secondary certificate;
- (58) **spring** means a hot, sweet, geothermal or mineral pool, spa or bath fed by groundwater from an aquifer;
- (59) **State Library** means the State Library Victoria;

- (60) **Stay at Home Directions (Restricted Areas)** means the **Stay at Home Directions (Restricted Areas) (No 23)** as amended or replaced from time to time;
- (61) **vehicle** has the same meaning as in the **PHW Act**;
- (62) **vulnerable child or young person** means a child or young person who:
- (a) resides in the care of the State or in out-of-home care; or
 - (b) is deemed vulnerable by a government agency, funded family or family violence service, and is assessed as requiring education and care outside the family home; or
 - (c) is identified by a **school, childcare or early childhood education service** as vulnerable (including via referral from a government agency, or funded family or family violence service, homeless or youth justice service or mental health or other health service); or
 - (d) is identified by a parent or guardian as vulnerable because the child or young person has a disability and cannot learn from home due to the circumstances of that disability;
- (63) **work premises** means the **premises** of an employer in which work is undertaken, including any **vehicle** whilst being used for work purposes;
- (64) **worker** has the same meaning as in the **Workplace Directions**;
- (65) **Workplace (Additional Industry Obligations) Directions** means the **Workplace (Additional Industry Obligations) Directions (No 46)** as amended or replaced from time to time;
- (66) **Workplace Directions** means the **Workplace Directions (No 50)** as amended or replaced from time to time;
- (67) **zoological park** has the same meaning as in the **Zoological Parks and Gardens Act 1995**.

12 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.

Note: section 209 of the PHW Act provides for infringement notices to be served on any person who 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.



Associate Professor N. Deborah Friedman

Acting Chief Health Officer, as authorised to exercise emergency powers under section 199(2)(a) of the PHW Act.

23 September 2021