

# Guidance for the Pandemic (Victorian Border Crossing) Order 2021 (No. 1)

This Order provides for persons entering Australia as international passengers or as international aircrew services workers to limit the spread of COVID-19.

All international arrivals:

- (1) must comply with the general post-entry conditions;
- (2) must travel immediately to the residence in Victoria where they will remain in self-quarantine for a prescribed period of time, unless undertaking essential activities;
- (3) are restricted from entering specific facilities for a period of time after entering Victoria; and
- (4) must carry and present specific documents on the request of an authorised officer.

International passenger arrivals must, amongst other things:

- (1) obtain a valid international passenger arrival permit;
- (2) complete prescribed COVID-19 PCR tests; and
- (3) self-quarantine for a prescribed period of time.

International aircrew arrivals must, amongst other things:

- (1) complete prescribed COVID-19 PCR tests or COVID-19 rapid antigen tests; and
- (2) self-quarantine for a prescribed period of time.

This Order also sets out the process for permit applications and the conditions under which a person may be granted an exemption from this Order.

Failure to comply with this Order may result in penalties.

*This guidance does not form part of the Pandemic (Victorian Border Crossing) Order 2021 (No. 1) and is for explanatory purposes only.*

# **Pandemic (Victorian Border Crossing) Order 2021 (No. 1)**

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## **Pandemic (Victorian Border Crossing) Order 2021 (No. 1)**

I, Martin Foley, Minister for Health, make the following Order under the **Public Health and Wellbeing Act 2008** in the belief that this Order is reasonably necessary to protect public health throughout Victoria from the serious risk arising from the coronavirus (COVID-19) pandemic disease.

### **Part 1 - Preliminary**

#### **1. Objective**

The objective of this Order is to provide a scheme for persons arriving in Australia as an international passenger arrival or international aircrew services worker, to limit the spread of COVID-19.

#### **2. Citation**

This Order may be referred to as the **Pandemic (Victorian Border Crossing) Order 2021 (No. 1)**.

#### **3. Authorising Provision**

This Order is made under section 165AI of the **Public Health and Wellbeing Act 2008**.

#### **4. Commencement and revocation**

- (1) This Order commences at 11:59:00pm on 15 December 2021 and ends at 11:59:00pm on 12 January 2022.
- (2) The **Victorian Border Crossing Permit Directions (No 44)** are revoked at 11:59:00pm on 15 December 2021.

#### **5. Definitions**

Terms used in this Order have the meanings set out in Schedule 1.

#### **6. Application of this Order**

This Order applies to the whole State of Victoria.

## Part 2 – Requirements for international travellers

### Division 1 – Restrictions on entry

#### 7. Restrictions on persons entering Victoria

- (1) A person who has been in another country in the 14 days prior to arrival in Victoria, may only enter Victoria under this Order if the person is an:
  - (a) international aircrew services worker and meets all of the requirements in clause 8; or
  - (b) international passenger arrival and meets all of the requirements in clause 10.
- (2) This Order does not apply to a person who enters Victoria from another country who is not a person specified in subclause (1)(a) or (b).

*Note: a person who is not covered as an international passenger arrival under clause 10 or an international aircrew services worker under clause 8 is not excluded from entering Victoria but is not governed by this Order and may instead be governed by the **Pandemic (Detention) Order**.*

### Division 2 – International aircrew services worker

#### 8. Eligibility

- (1) Subject to subclause (2), a person who is an international aircrew services worker may enter Victoria if the person:
  - (a) is fully vaccinated; or
  - (b) is a medically exempt person; or
  - (c) is not fully vaccinated or a medically exempt person but is an Australian based international aircrew services worker.
- (2) A person who enters Victoria as an international aircrew services worker under subclause (1) and remains for a period of 48 hours or longer in Victoria must have completed either:
  - (a) a pre-departure COVID-19 rapid antigen test within 24 hours of their scheduled departure for Victoria; or
  - (b) a pre-departure COVID-19 PCR test within 3 days of their scheduled departure for Victoria, and

if the person completed a COVID-19 rapid antigen test:

- (c) the person must undertake a second COVID-19 rapid antigen test as soon as possible if the person receives an invalid test result from the COVID-19 rapid antigen test, such that it is not possible to conclude that the result is a negative test result; and
  - (d) if the result of the first COVID-19 rapid antigen test is positive, or the result of the second COVID-19 rapid antigen test is invalid such that it is not possible to conclude that the result is negative, the person must complete a COVID-19 PCR test within 24 hours and remain in self-quarantine until the person receives a negative test result.
- (3) A person who enters Victoria as an Australian based international aircrew services worker who is fully vaccinated under subclause (1)(a) is exempt from the requirements in subclause (2), provided that:
- (a) the person is operating turnaround flights to a country outside of Australia (including passenger flights, freight and maintenance); and
  - (b) all aircrew services workers from that flight remain airside while in a country outside of Australia; and
  - (c) all aircrew services workers from that flight adhere to post-arrival COVID-19 PCR testing or COVID-19 rapid antigen testing requirements in clause 9; and
  - (d) the person must otherwise comply with relevant airline requirements and COVIDSafe Plan whilst in Victoria and in any other State or Territory in Australia.

## **9. International aircrew services worker - Obligations after entry**

- (1) A person who enters Victoria as an international aircrew services worker under clause 8(1):
- (a) must comply with the general post-entry conditions; and
  - (b) travel immediately and directly to the residence in Victoria where they will self-quarantine; and
  - (c) whilst in direct transit to their place of self-quarantine in Victoria, leave their vehicle only for the purposes of:
    - (i) obtaining medical care or medical supplies; or
    - (ii) accessing toilet and bathroom facilities; or
    - (iii) paying for fuel; or
    - (iv) purchasing essential items; or

- (v) purchasing takeaway food or drink; and
- (d) if leaving their vehicle for a permitted reason in subclause (c);
  - (i) wear a face covering at all times unless, in accordance with the pandemic orders in force, an exception from the requirement to wear a face covering applies to the person; and
  - (ii) practise physical distancing; and
  - (iii) keep detailed records of each place they stop; and
- (e) if they are fully vaccinated or medically exempt, must:
  - (i) remain in self-quarantine, unless undertaking essential activities, for a period of 72 hours after arrival in Victoria or until their next scheduled international flight (whichever is sooner); and
  - (ii) if leaving self-quarantine to undertake essential activities as permitted under subclause (i):
    - (A) wear a face covering at all times unless, in accordance with the pandemic orders in force, an exception from the requirement to wear a face covering applies to the person; and
    - (B) practise physical distancing; and
  - (iii) if remaining for a period of 48 hours or longer in Victoria, complete either:
    - (A) a COVID-19 PCR test within 24 hours of arrival in Victoria and remain in self-quarantine as required under subclause (i); or
    - (B) a COVID-19 rapid antigen test within 24 hours of arrival in Victoria, and
      1. undertake a second COVID-19 rapid antigen test as soon as possible if the person receives an invalid test result from the COVID-19 rapid antigen test, such that it is not possible to conclude that the result is a negative test result; and
      2. if the result of the first COVID-19 rapid antigen test is positive, or the result of the second COVID-19 rapid antigen test is invalid such that it is not possible to conclude that the result is negative, complete a COVID-19 PCR test within 24 hours and

remain in self-quarantine as required under subclause (i); and

- (iv) complete a COVID-19 PCR test between the fifth and seventh day of arrival in Australia if the person is in Victoria on those days and has not already taken a COVID-19 PCR test between the fifth and seventh days of arrival in Australia; and
- (f) if they are not fully vaccinated and are not medically exempt, must:
  - (i) remain in self-quarantine, unless undertaking essential activities, for a period 14 days after arrival in Victoria or until their next scheduled international flight (whichever is sooner); and
  - (ii) if leaving self-quarantine to undertake essential activities as permitted under subclause (i):
    - (A) wear a face covering at all times unless, in accordance with the pandemic orders in force, an exception from the requirement to wear a face covering applies to the person; and
    - (B) practise physical distancing; and
  - (iii) complete:
    - (A) a COVID-19 PCR test within 24 hours of arrival in Victoria and remain in self-quarantine as required under subclause (i); or
    - (B) a COVID-19 rapid antigen test within 24 hours of arrival in Victoria, and:
      - 1. undertake a second COVID-19 rapid antigen test as soon as possible if the person receives an invalid test result from the COVID-19 rapid antigen test, such that it is not possible to conclude that the result is a negative test result; and
      - 2. if the result of the first COVID-19 rapid antigen test is positive, or the result of the second COVID-19 rapid antigen test is invalid such that it is not possible to conclude that the result is negative, complete a COVID-19 PCR test within 24 hours and remain in self-quarantine as required under subclause (i); and



- (C) a COVID-19 PCR test again on the third and thirteenth days of their period of self-quarantine if the person is in self-quarantine on those days in accordance with subclause (i); and
- (g) must carry and present on request to an authorised officer, Victoria Police Officer or a Protective Services officer (or other person under such person's direction);
  - (i) an acceptable form of identification; and
  - (ii) international acceptable evidence to show that they are fully vaccinated or international acceptable certification to show they are a medically exempt person.
- (2) If an international aircrew services worker who is fully vaccinated enters Victoria under clause 8(1)(a), that person must, in addition to complying with the obligations specified in subclause (1), not attend a residential aged care facility, disability residential service or hospital (unless the person is obtaining urgent medical care) for 7 days after arriving in Victoria, unless:
  - (a) the worker has completed a COVID-19 PCR test and returned a negative result within 24 hours prior to visiting the residential aged care facility, disability residential service or hospital; or
  - (b) the worker has completed a COVID-19 rapid antigen test and returned a negative test result on the day they are visiting the residential aged care facility, disability residential service or hospital.
- (3) If an international aircrew services worker who is a medically exempt person enters Victoria under clause 8(1)(b), that person must, in addition to complying with the obligations specified in subclause (1), not attend an educational facility, childcare or early childhood services, residential aged care facility, disability residential service or hospital (unless the person is obtaining urgent medical care) for 14 days after arriving in Victoria.

## **Division 3 – International passenger arrival**

### **10. Eligibility**

- (1) A person may enter Victoria as an international passenger arrival if the person, at the time they enter in Victoria, is:
  - (a) 12 years and 2 months of age or above and is fully vaccinated or a medically exempt person; or
  - (b) younger than 12 years and 2 months of age and is either:

- (i) travelling with at least one parent or guardian who is fully vaccinated or is a medically exempt person; or
- (ii) travelling unaccompanied; or
- (c) at least 12 years and 2 months of age and less than 18 years of age and is not fully vaccinated or a medically exempt person and is either:
  - (i) travelling with at least one parent or guardian who is fully vaccinated or is a medically exempt person; or
  - (ii) travelling unaccompanied.

## 11. Requirements for entry

- (1) An international passenger arrival may enter Victoria if the person is either:
  - (a) 12 years and 2 months of age or above; or
  - (b) younger than 12 years and 2 months of age and travelling unaccompanied,

and they obtain a valid international passenger arrival permit which includes:

- (c) the person's personal details; and
- (d) an attestation by the person stating that (as at the date of attestation) the person and each dependant under 12 years and 2 months of age entering Victoria with that person:
  - (i) meets the requirements in clause 10(1); and
  - (ii) has provided information in the permit that is true and correct; and
  - (A) will comply with the international passenger arrival conditions; and
- (e) a QR code capable of being scanned by an authorised officer, a Victoria Police member or a Protective Services Officer (or other person under such person's direction).

*Note 1: dependants under the age of 12 years and 2 months do not need to obtain their own permit but must instead be listed on the permit obtained by their parent or guardian that they are travelling with.*

*Note 2: if a person is using a digital permit with a QR code capable of being scanned by an authorised officer, a Victoria Police member or a Protective Services Officer (or other person under such person's direction), the information specified in*

*subclause 0 is considered to be included on the permit if it is accessible by scanning the QR code.*

## 12. Conditions after arrival – all international passenger arrivals

- (1) An international passenger arrival who enters Victoria under clause 10(1) must, for the period between when they arrive in Victoria and until the day that is 14 days after the person arrived in Australia:
- (a) comply with all general post-entry conditions; and
  - (b) carry and present on request to an authorised officer, Victoria Police Officer or a Protective Services officer (or other person under such person's direction):
    - (i) their valid international passenger arrival permit (unless they are a child under 12 years and 2 months of age and travelling with a person who holds a valid permit); and
    - (ii) an acceptable form of identification; and
    - (iii) if applicable, evidence of their COVID-19 PCR test results in accordance with clause **Error! Reference source not found.**; and
    - (iv) international acceptable evidence or international acceptable certification to show that:
      - (A) they are fully vaccinated or a medically exempt person; or
      - (B) if younger than 12 years and 2 months of age, at least one of their parents or guardians is fully vaccinated or is a medically exempt person; or
      - (C) if at least 12 years and 2 months of age and less than 18 years of age and not:
        - 1. fully vaccinated or a medically exempt person; or
        - 2. travelling unaccompanied,at least one of their parents or guardians is fully vaccinated or is a medically exempt person.

**13. Additional conditions after arrival – all international passenger arrivals except adolescents who are not fully vaccinated and are not a medically exempt person**

- (1) An international passenger arrival who enters Victoria under clause 10(1) (other than under clause 10(1)(c)) must:
- (a) if they are required to self-quarantine under subclause (e), travel immediately and directly to the premises in Victoria where they will self-quarantine; and
  - (b) if they are required to self-quarantine under subclause (e), whilst in direct transit to their place of self-quarantine in Victoria, only leave their vehicle for the purposes of:
    - (i) obtaining medical care or medical supplies; or
    - (ii) accessing toilet and bathroom facilities; or
    - (iii) paying for fuel; or
    - (iv) purchasing essential items; or
    - (v) purchasing takeaway food or drink; and
  - (c) if leaving their vehicle for a permitted reason in subclause (b):
    - (i) wear a face covering at all times unless, in accordance with the pandemic orders in force, an exception from the requirement to wear a face covering applies to the person; and
    - (ii) practise physical distancing; and
    - (iii) keep detailed records of each place they stop; and
  - (d) complete a COVID-19 PCR test:
    - (i) within 24 hours of arrival in Victoria if the person is in Victoria at any time within 24 hours of arrival in Australia and has not already taken a test within 24 hours of arrival in Australia; and
    - (ii) again between the fifth and seventh day of arrival in Australia if the person is in Victoria on those days and has not already taken a test between the fifth and seventh day of arrival in Australia; and
  - (e) remain in self-quarantine, unless undertaking essential activities, for the period when they enter Victoria until the time that is 72 hours after arriving in Australia. If the person arrived in Victoria after the end of the self-quarantine period, the person is not required to self-quarantine; and

- (f) if leaving self-quarantine to undertake essential activities as permitted under subclause (e):
  - (i) wear a face covering at all times unless, in accordance with the pandemic orders in force, an exception from the requirement to wear a face covering applies to the person; and
  - (ii) practise physical distancing; and
- (g) if they are required to self-quarantine under subclause (e), not share spaces or facilities at the premises at which they are self-quarantining, including a bedroom, bathroom or kitchen, with any other person who is not self-quarantining.

**14. Additional conditions after arrival – fully vaccinated adolescents and adults**

- (1) If a fully vaccinated person aged 12 years and 2 months of age or above enters Victoria under clause 10(1)(a), that person must, in addition to complying with the obligations specified in clauses 12(1) and 13(1), not attend an educational facility, childcare or early childhood services, residential aged care facility, disability residential service or hospital (unless the person is obtaining urgent medical care) in Victoria for 7 days after arriving in Australia, unless:
  - (a) the person has completed a COVID-19 PCR test and returned a negative result within 24 hours prior to visiting the educational facility, childcare or early childhood services, residential aged care facility, disability residential service or hospital; or
  - (b) the person has completed a COVID-19 rapid antigen test and returned a negative test result on the day they are visiting the educational facility, childcare or early childhood services, residential aged care facility, disability residential service or hospital.

**15. Additional conditions after arrival – adolescents who are not fully vaccinated and are not a medically exempt person**

- (1) If a person enters Victoria under clause 10(1)(c), that person must, in addition to the obligations specified in clause 12(1):
  - (a) travel immediately and directly to, and self-quarantine at, the premises at which the person will reside for the purposes of self-quarantine for the period when they arrive in Victoria until the day that is 8 days after the person arrived in Australia. If the person arrived in Victoria after the end of the self-quarantine period, the person is not required to self-quarantine; and
  - (b) whilst in direct transit to their place of self-quarantine in Victoria, only leave their vehicle for the purposes of:

- (i) obtaining medical care or medical supplies; or
  - (ii) accessing toilet and bathroom facilities; or
  - (iii) paying for fuel; or
  - (iv) purchasing essential items; or
  - (v) purchasing takeaway food or drink; and
- (c) if leaving their vehicle for a permitted reason in subclause (b):
- (i) wear a face covering at all times unless, in accordance with the pandemic orders in force, an exception from the requirement to wear a face covering applies to the person; and
  - (ii) practise physical distancing; and
  - (iii) keep detailed records of each place they stop; and
- (d) complete a COVID-19 PCR test:
- (i) within 24 hours of arrival in Victoria if the person is in Victoria at any time within 24 hours of arrival in Australia and has not already taken a COVID-19 PCR test within 24 hours of arrival within Australia; and
  - (ii) again between the fifth and seventh day of arrival in Australia if the person is in Victoria on those days and has not already taken a COVID-19 PCR test between the fifth and seventh days of arrival in Australia; and
- (e) remain in self-quarantine unless undertaking essential activities for the period specified in subclause (a); and
- (f) if leaving self-quarantine to undertake essential activities under subclause (e):
- (i) wear a face covering at all times unless, in accordance with the pandemic orders in force, an exception from the requirement to wear a face covering applies to the person; and
  - (ii) practise physical distancing; and
- (g) not share spaces or facilities at the premises at which they are self-quarantining, including a bedroom, bathroom or kitchen, with any other person who is not self-quarantining; and
- (h) not attend an educational facility in Victoria:

- (i) until the day that is 8 days after the person arrived in Australia; and
  - (ii) if applicable, until they have received a negative result from their COVID-19 PCR test carried out between the fifth and seventh day after arrival, in accordance with subclause (d)(ii); and
- (i) not attend childcare or early childhood services, residential aged care facility, disability residential service or hospital in Victoria (unless obtaining urgent medical care), until the day that is 15 days after the person arrived in Australia.

*Note: the period specified in (i) is an additional 7 days from the end of the self-quarantine period specified in (a).*

**16. Additional conditions after arrival – medically exempt persons and children who are not fully vaccinated**

- (1) If a medically exempt person aged 18 years or older enters Victoria under clause 10(1)(a), that person must, in addition to the obligations specified in clauses 12(1) and 13(1), not attend an educational facility, childcare or early childhood services, residential aged care facility, disability residential service or hospital (unless obtaining urgent medical care) in Victoria until the day which is 15 days after the person arrived in Australia.
- (2) If a medically exempt person aged at least 12 years and 2 months and less than 18 years enters Victoria under clause 10(1)(a), that person must, in addition to the obligations specified in clauses 12(1) and 13(1):
- (a) not attend an educational facility in Victoria:
    - (i) until the day which is 8 days after the person arrived in Australia; and
    - (ii) if applicable, until they have received a negative result from their COVID-19 PCR test carried out in accordance with clause 13(1)(d)(ii); and
  - (b) not attend a childcare or early childhood services, residential aged care facility, disability residential service or hospital (unless obtaining urgent medical care) in Victoria until the day that it is 15 days after the person arrived in Australia.
- (3) A person younger than 12 years and 2 months of age who enters Victoria under clause 10(1)(b) must, in addition to the obligations specified in clauses 12(1) and 13(1) :
- (a) not attend an educational facility in Victoria:

- (i) until the day which is 8 days after the person arrived in Australia; and
  - (ii) if applicable, until they have received a negative result from their COVID-19 PCR test carried out in accordance with clause 13(1)(d)(ii); and
- (b) not attend childcare or early childhood services, residential aged care facility, disability residential service or hospital (unless obtaining urgent medical care) in Victoria until the day that is 15 days after the person arrived in Australia.

## **Part 3 – Permit requirements**

### **17. Permit validity and revocation**

An international passenger arrival permit:

- (a) is valid from the day of entry into Victoria until the day that is 15 days after the person arrived in Australia (unless revoked earlier); and
- (b) may be used on multiple occasions by a person to enter Victoria during the validity period in subclause (a); and
- (c) is immediately revoked if the person departs Australia within the validity period in subclause (a).

### **18. Applications for a permit**

- (1) A person may apply for a permit using the Service Victoria Platform.
- (2) An application for a permit must contain all information reasonably required by the Department from time to time, for the purpose of protecting public health.
- (3) The Service Victoria CEO:
  - (a) may deliver a permit to a person if clause 10 and 11 (*international passenger arrivals*) applies, the person makes an application under subclause (1) and the application complies with the requirements under subclause (2);
  - (b) may provide a copy of the permit to the Department;
  - (c) will provide any information contained in an application to the Department on behalf of the person; and
  - (d) may use an authority app to provide data to the Department that is collected from the scanning of permits, including the validation of a person's permit when entering Victoria.



- (4) A person must not give information, or make a statement, in an application for a permit that is false or misleading in a material particular.

#### **19. Request for exemption**

- (1) A person is not required to comply with a requirement of this Order if the person is granted an exemption from that requirement under clause 20(2).
- (2) A person may request an exemption by:
  - (a) using the Service Victoria Platform; or
  - (b) contacting the Department by phone (or other method determined by the Department from time to time).
- (3) A request for exemption must contain all information reasonably required by the Department from time to time, for the purpose of protecting public health.
- (4) The Service Victoria CEO will provide any information contained in a request for exemption under subclause (2)(a) to the Department.

#### **20. Power to grant exemptions**

- (1) A person may request an exemption from any or all requirements contained in this Order.
- (2) The Chief Health Officer or Deputy Chief Health Officer (or the Secretary or a Deputy Secretary to the Department or an Executive Director or Director in the COVID-19 Response Division of the Department) may exempt a person or group of persons from any or all requirements contained in these directions, if satisfied that an exemption is appropriate, having regard to the:
  - (a) need to protect public health; and
  - (b) principles in sections 5 to 10 of the **Public Health and Wellbeing Act 2008**, as appropriate.
- (3) Before granting any exemption under subclause (2) the Chief Health Officer or Deputy Chief Health Officer (or the Secretary or a Deputy Secretary to the Department or an Executive Director or Director in the COVID-19 Response Division of the Department) must consider:
  - (a) the circumstances set out in any request; and
  - (b) any documentary evidence provided by the person, including test results or other medical information in relation to the person; and
  - (c) any further documentary evidence requested by the Chief Health Officer or Deputy Chief Health Officer (or the Secretary or a Deputy Secretary

to the Department or an Executive Director or Director in the COVID-19 Response Division of the Department) and provided by the person.

- (4) An exemption under subclause (2):
- (a) must:
    - (i) be given by the Department, in writing, to the person who is the subject of the exemption; or
    - (ii) be published by the Department, in writing, for the purpose of any group of persons who are the subject of the exemption; and
    - (iii) specify the requirement or requirements that the person or group of persons need not comply with; and
  - (b) may be subject to additional or different conditions approved by the Chief Health Officer or Deputy Chief Health Officer.
- (5) An exemption granted under subclause (2) does not prevent an authorised officer from exercising an emergency power or a pandemic management power to give the person or group of persons a different direction or impose a different requirement on the person or group of persons.

## 21. Conditions of exemption

- (1) A person who receives an exemption under clause 20(2) must:
- (a) enter Victoria within 72 hours of the time set out in the exemption, if applicable; and
- Note 1: an exemption will expire if the person does not enter Victoria within 72 hours of the time set out in the exemption and the person will need to re-apply for a new exemption.*
- Note 2: an exemption may be subject to a condition to enter a particular point of entry into Victoria under clause 20(4)(b).*
- (b) carry, and present on request to an authorised officer, a Victoria Police member or a Protective Services Officer (or other person under their direction):
    - (i) the exemption; and
    - (ii) documentary evidence supporting the grounds for the exemption, if applicable; and
    - (iii) an acceptable form of identification; and
  - (c) comply with any conditions imposed on the exemption.

- (2) Nothing in clauses 19(1) to 21(1) prevents an authorised officer from exercising an emergency power or a pandemic management power to give a person a different direction or impose a different requirement or condition of exemption on the person.

## Part 4 – General provisions

### 22. Severability

To the extent that any part of this order is held to be in excess of power or otherwise invalid it is intended that it is to be taken to be valid to the extent to which it is not in excess of that power.

### 23. Transitional provisions

- (1) A reference in any pandemic order in force (other than a revoked direction) to the **Victorian Border Crossing Permit Directions (No 44)** is taken on and after the revocation of the **Victorian Border Crossing Permit Directions (No 44)** to be a reference to this Order.
- (2) Any act matter or thing, including a permit, that had effect under the **Victorian Border Crossing Permit Directions (No 44)** immediately before they were revoked continues to have effect under this Order.
- (3) Without limiting subclause (2), this Order is subject to any exemption, benefit, requirement or entitlement (however described) to which the **Victorian Border Crossing Permit Directions (No 44)** were subject immediately before they were revoked.
- (4) This clause is subject to any express provision to the contrary in this Order.
- (5) In this clause:

*revoked direction* means a direction that is:

- (a) made by the Chief Health Officer or Acting Chief Health Officer under section 200(1) of the **Public Health and Wellbeing Act 2008**; and
- (b) continued by section 165CJ of that Act as if it were a pandemic order in the same terms made under section 165AI(1); and
- (c) revoked by a pandemic order.

## Part 5 – Penalties

### 24. Penalties

Section 165BN of the **Public Health and Wellbeing Act 2008** provides:

### **Failure to comply with pandemic order, direction or other requirement**

- (1) A person commits an offence if the person refuses or fails to comply with a pandemic order, or with a direction given to the person, or a requirement made of the person, in the exercise of a pandemic management power.

Penalty: In the case of a natural person, 60 penalty units;

In the case of a body corporate, 300 penalty units.

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

*Note: the **Public Health and Wellbeing Regulations 2019** provide for infringement notices to be served on any person who has refused or failed to comply (without a reasonable excuse) with a pandemic order, or a direction given or a requirement made in the exercise of a pandemic management power. The amount payable pursuant to the infringement notice varies depending on the nature of the failure or refusal and the age of the person.*

## Schedule 1 – Definitions

**acceptable certification** has the same meaning as in the **Open Premises Order**;

**acceptable form of identification** means:

- (1) subject to subclauses (2) and (3), photographic personal identification and evidence of the current address where the person ordinarily resides (unless the person is under the age of 18); and

*Example: photographic personal identification includes a driver's licence issued by any State or Territory or a passport issued by Australia. Evidence of the current address where the person ordinarily resides includes a driver's licence or any other document issued by any State or Territory or any municipal district, local government area, unincorporated local government area (not including Lord Howe Island) or local authority, including a rates notice.*

- (2) if the person is unable to provide photographic personal identification in accordance with subclause (1), two forms of documentary evidence satisfactory to the authorised officer, Victoria Police member or Protective Services Officer (or other person under such person's direction) to prove the person's identity (unless the person is under the age of 18); and

*Example: documentary evidence includes Medicare card, Australian, State or Territory government correspondence, credit card or utility bill.*

- (3) if the person is unable to provide evidence of the current address where the person ordinarily resides in accordance with subclause (1), other documentary evidence satisfactory to the authorised officer, Victoria Police member or Protective Services Officer (or other person under such person's direction) of the person's address (unless the person is under the age of 18);

*Example: a letter from an Indigenous community leader or community services provider confirming the person's identity and confirming the person's address or other place of residence arrangements.*

**aircrew services worker** means a pilot or a member of cabin crew who:

- (1) is undertaking operational flying duties or proficiency training on an aircraft that is not an aircraft of any part of the Australian Defence Force (including any aircraft that is commanded by a member of that Force in the course of duties as such a member); or
- (2) is required by their employer to attend facilities in Victoria for the purpose of undertaking simulator training or emergency procedures training;

**authorised officer** has the same meaning as in the **Public Health and Wellbeing Act 2008**;

**childcare or early childhood services** means onsite early childhood education and care services or children's services provided under the:

- (1) **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
- (2) **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;

**COVID-19** means the contagious disease caused by severe acute respiratory syndrome coronavirus 2;

**COVID-19 Mandatory Vaccination (General Workers) Order** means the **Pandemic COVID-19 Mandatory Vaccination (General Workers) Order 2021 (No. 1)** as amended or replaced from time to time;

**COVID-19 Mandatory Vaccination (Specified Facilities) Order** means the **Pandemic COVID-19 Mandatory Vaccination (Specified Facilities) Order 2021 (No. 1)** as amended or replaced from time to time;

**COVID-19 Mandatory Vaccination (Specified Workers) Order** means the **Pandemic COVID-19 Mandatory Vaccination (Specified Workers) Order 2021 (No. 1)** as amended or replaced from time to time;

**COVID-19 PCR test** means a COVID-19 polymerase chain reaction test;

**COVID-19 rapid antigen test** means a COVID-19 rapid antigen test;

**COVID-19 symptoms** means symptoms consistent with **COVID-19**, including but not limited to the following:

- (1) a fever ( $\geq 37.5^{\circ}\text{C}$ ) or consistent fever of less than  $37.5^{\circ}\text{C}$  (such as night sweats or chills);
- (2) acute respiratory infection (such as cough, shortness of breath, sore throat);
- (3) loss of smell;
- (4) loss of taste;

**COVID-19 vaccine** means a vaccine to protect a person against COVID-19 that:

- (1) has been registered, provisionally registered or recognised by the Therapeutic Goods Administration; or
- (2) has been approved by a comparable overseas regulator, as determined by the Therapeutic Goods Administration, under regulation 16DA(3) of the **Therapeutic Goods Regulation 1990** of the Commonwealth;

**COVIDSafe Plan** has the same meaning as in the **Workplace Order**;

**Department** means the Victorian Department of Health;

**disability residential service** means a residential service within the meaning of the **Disability Act 2006** and to avoid doubt, includes the facility called the Intensive Residential Treatment Program of the Statewide Forensic Service;

*Note: the Intensive Residential Treatment Program of the Statewide Forensic Service is often referred to as “DFATS”.*

**educational facility** has the same meaning as in the **COVID-19 Mandatory Vaccination (Specified Facilities) Order**;

**emergency powers** has the same meaning as in the **Public Health and Wellbeing Act 2008**;

**essential activities** means;

- (1) obtaining medical care or medical supplies; or
- (2) obtaining a **COVID-19 PCR test** or **COVID-19 rapid antigen test**; or
- (3) responding to an emergency situation; or
- (4) activities required to comply with any law; or
- (5) departing the State of Victoria;

**face covering** means a fitted face mask that covers the nose and mouth to provide the wearer protection against infection (but does not include a face shield);

**fully vaccinated** means a person who has received either one dose of a **one dose COVID-19 vaccine** or two doses of a **two dose COVID-19 vaccine**, including a dose of two different types of a **two dose COVID-19 vaccine**;

**general post-entry conditions** means that a person must:

- (1) comply with all of the pandemic orders in force; and
- (2) monitor for COVID-19 symptoms; and
- (3) obtain a test for COVID-19 as soon as possible after experiencing any COVID-19 symptoms;

**hospital** has the same meaning as in the **Visitors to Hospitals and Care Facilities Order**;

**international acceptable certification** means the person has a certificate issued by a medical practitioner who is authorised by an overseas government authority or an accredited vaccination provider (a vaccination provider that is accredited in or by the overseas government authority in the country which the person received the vaccination), that is written in English or accompanied by a certified translation and contains:

- (1) the person's name as it appears on their passport; and

- (2) the person's date of birth or passport number; and  
either
- (3) a certification from the medical practitioner that the person is unable to receive a dose, or a further dose, of a COVID-19 vaccine due to:
  - (a) a **medical contraindication**; or
  - (b) an acute medical illness (including where the person has been diagnosed with **COVID-19**); or
  - (c) a documented diagnosed **COVID-19** infection confirmed by a **COVID-19 PCR test** within the previous 6 months.

*Note: a person who enters Victoria on an international passenger arrival permit has a temporary medical exemption pursuant to subclause (c) and will not meet the definition for a medical exemption in other relevant pandemic orders in force, including the **COVID-19 Mandatory Vaccination (Specified Facilities) Order**, **COVID-19 Mandatory Vaccination (General Workers) Order**, **COVID-19 Mandatory Vaccination (Specified Workers) Order** and the **Open Premises Order**, unless they also meet the criteria at subclause (3)(a) or (b).*

**international acceptable evidence** means information about a person's vaccination status:

- (1) information that is derived from a record of information that was made under, or in accordance with, the Australian Immunisation Register Act 2015 of the Commonwealth; or
- (2) in relation to a person who is **fully vaccinated** and ordinarily resides outside Australia, is a copy of a paper or digital certificate issued by an overseas government authority or an accredited overseas government vaccination provider that shows the person is fully vaccinated, is written in English or accompanied by a certified translation, and contains:
  - (a) the person's name as it appears in their passport;
  - (b) the person's date of birth or passport number;
  - (c) the vaccine brand name; and
  - (d) the date of each dose or the date on which a full course of immunisation was completed; or
- (3) an Australian International COVID-19 Vaccination Certificate.

**international aircrew services worker** means:

- (1) an aircrew services worker who is entering or departing Victoria on a flight to or from an international port; or



- (2) an aircrew services worker who is entering Victoria from another State or Territory of Australia for the purpose of undertaking operational flying duties on a flight from Victoria to an international port; or
- (3) an aircrew services worker who is entering Victoria on a flight from another State or Territory of Australia on which they are undertaking operational flying duties and has been in another country in the 14 days prior to entering Victoria;

**international passenger arrival** means a person who is entering Victoria, has been in another country in the 14 days prior to entering, and is not an international aircrew services worker;

**international passenger arrival conditions** means all of the conditions set out in clause 12(1);

**international passenger arrival permit** has the meaning in clause 11(1);

**medical contraindication** has the same meaning as in the **COVID-19 Mandatory Vaccination (Specified Facilities) Order**;

**medical practitioner** has the same meaning as in the **COVID-19 Mandatory Vaccination (Specified Facilities) Order**;

**medically exempt person** means a person who holds an international acceptable certification that the person is unable to receive a dose, or a further dose, of a COVID-19 vaccine due to:

- (1) a medical contraindication; or
- (2) an acute medical illness (including where the person has been diagnosed with **COVID-19**);

**one dose COVID-19 vaccine** means 'COVID-19 Vaccine Janssen' (Janssen-Cilag);

**Open Premises Order** means the **Pandemic (Open Premises) Order 2021 (No. 1)** as amended or replaced from time to time;

**Pandemic (Detention) Order** means the **Pandemic (Detention) Order 2021 (No. 1)** as amended or replaced from time to time;

**pandemic management power** has the same meaning as in the **Public Health and Wellbeing Act 2008**;

**permit** means the written notice (digital or otherwise) provided under clause 18 and includes **international passenger arrival permit**;

**personal details** means:

- (1) the person's full name; and
- (2) the person's contact phone number; and

- (3) the full names of any dependants under the age of 12 years and 2 months for whom the person is a parent, guardian or carer, arriving in Victoria with the person; and
- (4) the address from which the person is departing when entering Victoria; and
- (5) where applicable, the current address where the person ordinarily resides; and
- (6) the address where the person will reside after entering Victoria; and

*Note: if the person is in Victoria temporarily, they can provide details of the accommodation at which they are staying.*

- (7) the date of entry to Victoria; and
- (8) if applicable, any planned date of departure from Victoria;
- (9) the person's **vaccination status**;

**residential aged care facility** means premises at which accommodation and personal care or nursing care or both are provided to a person in respect of whom a **residential care subsidy** or a **flexible care subsidy** is payable under the **Aged Care Act 1997** of the Commonwealth;

**revoked Border Crossing Permit Scheme Directions** means any of the **New South Wales Border Crossing Permit Scheme Directions, New South Wales and Queensland Border Crossing Scheme Directions** or the **Victorian Border Crossing Permit Directions**;

**school** means a registered school as defined in the **Education and Training Reform Act 2006**;

**Service Victoria CEO** has the same meaning as in the **Service Victoria Act 2018**;

**Service Victoria Platform** means the digital system provided by the Service Victoria CEO and other parts of the Victorian Government;

**two dose COVID-19 vaccine** means any of the following:

- (1) Vaxzevria (AstraZeneca);
- (1) Comirnaty (Pfizer);
- (2) Spikevax (Moderna);
- (3) Coronvac (Sinovac);
- (4) Covishield (Astrazeneca/Serum Institute of India);
- (5) Covaxin (Bharat Biotech);
- (6) BBIP-CorV (Sinopharm);

**vaccination status** means whether a person is **fully vaccinated**, received one dose of a **two dose COVID-19 vaccine** or has not received any dose of a **COVID-19 vaccine**;

**Visitors to Hospitals and Care Facilities Order** means the **Pandemic (Visitors to Hospitals and Care Facilities) Order 2021 (No. 1)** as amended or replaced from time to time;

**Workplace Order** means the **Pandemic (Workplace) Order 2021 (No. 1)** as amended or replaced from time to time.

A handwritten signature in blue ink, appearing to read 'M. Foley', written in a cursive style.

**Martin Foley MP, Minister of Health**

15 December 2021