

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

## Diagnosed Persons and Close Contacts Directions (No 35)

*Public Health and Wellbeing Act 2008 (Vic)*

Section 200

I, Professor Benjamin Cowie, 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)(d) of the **Public Health and Wellbeing Act 2008 (Vic) (PHW Act)**:

### 1 Preamble

- (1) The purpose of these directions is to require persons:
  - (a) diagnosed with severe acute respiratory syndrome coronavirus 2 (**SARS-CoV-2**) to self-isolate;
  - (b) who are living with a **diagnosed person**, or who have been in close contact with a diagnosed person, to self-quarantine,in order to limit the spread of SARS-CoV-2.
- (2) These directions replace the **Diagnosed Persons and Close Contacts Directions (No 34)**.

### 2 Citation

These directions may be referred to as the **Diagnosed Persons and Close Contacts Directions (No 35)**.

### 3 Commencement and revocation

- (1) These directions commence at 6:00:00pm on 25 November 2021 and end at 11:59:00pm on 15 December 2021.
- (2) The **Diagnosed Persons and Close Contacts Directions (No 34)** are revoked at 6:00:00pm on 25 November 2021.

### 4 Self-isolation for diagnosed persons

*Who is a diagnosed person?*

- (1) A person is a diagnosed person if the person:
  - (a) at any time between midnight on 25 March 2020 and 11:59:00pm on 15 December 2021 has been informed that they have been diagnosed with SARS-CoV-2; and
  - (b) has not:

- (i) been given, or is not taken to have been given, **clearance from self-isolation** under clause 5; or
  - (ii) completed 10 days of self-isolation after the date on which the person undertook a **test for SARS-CoV-2**, from which they were diagnosed with SARS-CoV-2,
- whichever is earlier.

#### *Requirement to self-isolate*

- (2) A diagnosed person must self-isolate under these directions:
- (a) if the diagnosis is communicated to the person on or after the commencement of these directions; or
  - (b) if the diagnosis was communicated to the person before the commencement of these directions.

*Note: the requirements of self-isolation are specified in clause 9. A diagnosed person can still leave the **premises** at which they are self-isolating to obtain medical care.*

#### *Location of self-isolation*

- (3) A diagnosed person must self-isolate:
- (a) if subclause (2)(a) applies, at the premises chosen by the person under subclause (4); or
  - (b) if subclause (2)(b) applies, at the premises at which the person was required to reside under a **Revoked Isolation Direction**.
- (4) For the purposes of subclause (3)(a), the diagnosed person may choose to self-isolate at:
- (a) a premises at which they ordinarily reside; or
  - (b) another premises that is suitable for the person to reside in for the purpose of self-isolation.

*Note 1: a person can decide to self-isolate at a hotel or other suitable location, instead of self-isolating at their ordinary place of residence.*

*Note 2: once a person has chosen the premises at which to self-isolate, the person must reside at that premises for the entirety of the period of self-isolation unless an exemption to move to and self-isolate at an alternate premises has been given: see clauses 9(2)(a) and 9(8).*

- (5) If a diagnosed person who has chosen a premises under subclause (4) is not at the premises at the time when the choice is made, the person must immediately and directly travel to that premises, unless the person is admitted to a **hospital** or other facility for the purposes of receiving medical care.

#### *Self-isolation period*

- (6) For the purposes of subclause (2), the period of self-isolation begins:
- (a) if subclause (2)(a) applies, when the diagnosis is communicated to the person; or

- (b) if subclause (2)(b) applies, upon the commencement of these directions.
- (7) For the purposes of subclause (2), the period of self-isolation ends on the earlier of:
- (a) 10 days after the date on which the person undertook a test for SARS-CoV-2, from which they were diagnosed with SARS-CoV-2; or
  - (b) when the person is given clearance from self-isolation under clause 5.

*Notifications by the diagnosed person*

- (8) Immediately after choosing a premises under subclause (4), the diagnosed person must:
- (a) if any other person is residing at the premises chosen by the diagnosed person, notify the other person that:
    - (i) the diagnosed person has been diagnosed with SARS-CoV-2; and
    - (ii) the diagnosed person has chosen to self-isolate at the premises; and
  - (b) notify the **Department** of:
    - (i) the address of the premises chosen by the diagnosed person; and
    - (ii) the name of any other person who is residing at the premises chosen by the diagnosed person.
- (9) If, during the period that a diagnosed person is self-isolating at a premises for the purposes of clause 4, another person informs the diagnosed person that they intend to commence residing at the premises chosen by the diagnosed person:
- (a) the diagnosed person must inform the other person of their diagnosis; and
  - (b) if the other person commences residing at the premises, the diagnosed person must notify the Department that a person has commenced residing with the diagnosed person and of the name of that person.
- (10) The diagnosed person must notify:
- (a) the operator of any work premises at which the diagnosed person ordinarily works, if the diagnosed person attended an **indoor space** at the work premises during their **infectious period**; or
  - (b) the operator of any **education facility** at which they are enrolled, if the diagnosed person attended an indoor space at the education facility during their infectious period,
- that the diagnosed person has been diagnosed with SARS-CoV-2, and of the diagnosed person's infectious period.

*Note: the diagnosed person's parent, guardian or carer may notify the operator of the education facility on behalf of the diagnosed person for the purpose of subclause (b).*

## 5 Clearance from self-isolation

- (1) A diagnosed person is given clearance from self-isolation if:
  - (a) an officer or nominated representative of the Department makes a determination under subclause (2) in relation to the person; and
  - (b) the person is given notice of the determination in accordance with subclause (3).
- (2) For the purposes of subclause (1)(a), an officer or nominated representative of the Department may make a determination in relation to a person if the officer or nominated representative is satisfied that the person meets the criteria for discharge from self-isolation under existing **Departmental Requirements**.
- (3) For the purposes of subclause (1)(b), the notice must be in writing but is not required to be in a particular form.
- (4) A person who has been given clearance from self-isolation, however expressed, under a Revoked Isolation Direction is taken to have been given clearance from self-isolation under this clause.

## 6 Self-quarantine for close contacts

*Who is a close contact?*

- (1) For the purposes of this clause, a person is a **close contact** if between midnight 11 May 2020 and 11:59:00pm on 15 December 2021:
  - (a) an officer or nominated representative of the Department makes a determination that the person is a close contact of a diagnosed person, including in the event of an **outbreak**, and has given that person a notice of the determination in accordance with subclause (2); or
  - (b) the person has spent more than four hours in an indoor space at a private residence, **accommodation premises** or **care facility** with a diagnosed person during their infectious period.
- (2) For the purposes of subclause (1)(a), the notice:
  - (a) may be given orally or in writing, and, if given orally, must be confirmed in writing as soon as reasonably practicable; and
  - (b) is not required to be in a particular form.

*Period of self-quarantine*

- (3) Subject to subclause (8), for the purposes of this clause, if a person:
  - (a) is a close contact; and
  - (b) the person:
    - (i) is **fully vaccinated**; or

- (ii) is under 12 years and two months of age and all persons with whom they ordinarily reside are fully vaccinated,

then

- (c) the person is required to self-quarantine for seven days from the date the diagnosed person tested positive for SARS-CoV-2.

(4) Subject to subclause (8), for the purposes of this clause, if a person:

- (a) is a close contact; and

(b) the person:

- (i) is aged 12 years and two months or over and is not fully vaccinated; or
- (ii) is under 12 years and two months of age and any person with whom they ordinarily reside is not fully vaccinated,

then

- (c) the person is required to self-quarantine for 14 days from the date the diagnosed person tested positive for SARS-CoV-2.

#### *Requirement to self-quarantine*

(5) Subject to subclause (9), a close contact must self-quarantine under these directions.

*Note: the requirements of self-quarantine are specified in clause 9.*

#### *Location of self-quarantine*

(6) A close contact may choose to self-quarantine at:

- (a) a premises at which they ordinarily reside; or
- (b) another premises that is suitable for the person to reside in for the purpose of self-quarantine.

*Note 1: a person can decide to self-quarantine at a hotel or other suitable location, instead of self-quarantining at their ordinary place of residence.*

*Note 2: once a person has chosen the premises at which to self-quarantine, the person must reside at that premises for the entirety of the period of self-quarantine unless an exemption to move to and self-quarantine at an alternate premises has been given: see clauses 9(2)(a) and 9(8).*

(7) If, at the time a person becomes aware or is given notice that they are a close contact, the person is not at the premises chosen by the person under subclause (6), the person must immediately and directly travel to those premises.

#### *End of period of self-quarantine*

(8) For the purposes of this clause, the period of self-quarantine ends:

- (a) subject to subclauses (b) and (c), at the time specified in subclause (3) or (3) or as varied under subclause (11) or extended under clause 7(1) or 7(3); or

- (b) the notice given to the person under subclause (1)(a) is revoked under subclause (11), at the time that revocation takes effect; or
- (c) if the person becomes a diagnosed person following a **test for SARS-CoV-2**, when the diagnosis is communicated to the person.

*Note 1: a close contact who becomes a diagnosed person will then be required to self-isolate under clause 4, for a period ending when the person is given clearance from self-isolation under clause 5.*

*Note 2: a close contact's period of self-quarantine may be extended if the person is waiting to receive test result under clause 7(1) or has refused to undertake a test for SARS-CoV-2 under clause 7.*

*Exception — previous clearance*

- (9) A close contact is not required to self-quarantine under this clause if the person has been given clearance from self-quarantine by the **Director or Medical Lead of a designated Local Public Health Unit** in accordance with subclause (10).
- (10) For the purposes of subclause (9):
  - (a) the Director or Medical Lead of a designated Local Public Health Unit may make a determination in relation to a person if the Director or Medical Lead of a designated Local Public Health Unit is satisfied that the person is at negligible risk of infection of SARS-CoV-2, on the basis that the person has previously been a diagnosed person and has since been given clearance from self-isolation in accordance with clause 5(1) and must give the person notice of the decision; and
  - (b) for the purposes of subclause (a), the notice must be in writing but is not required to be in a particular form.

*Review of determination and notice*

- (11) The Chief Health Officer, a Deputy Chief Health Officer or an **authorised officer** who is authorised to exercise **emergency powers** under section 199(2)(a) of the PHW Act, may review a determination made under subclause (1)(a) and, if satisfied that it is appropriate, having regard to Departmental Requirements, may vary or revoke the notice given to the person under subclause (1)(a) and must give the person notice of the decision.
- (12) For the purposes of subclause (11), the notice must be given in writing but is not required to be in a particular form.

*Transitional provision — close contacts under Revoked Isolation Directions*

- (13) If a person was a close contact under a Revoked Isolation Direction:
  - (a) a determination made, or taken to have been made, under the Revoked Isolation Direction in relation to the person's status as a close contact is taken to be a determination made under subclause (1)(a); and

- (b) for the purposes of subclause (6), the person is taken to have chosen to self-quarantine at the premises at which the person was required to self-quarantine under the Revoked Isolation Direction.

*Notifications by the close contact*

- (14) If a close contact is required to self-quarantine under clause 6 and, during the period of self-quarantine, another person informs the close contact that they intend to commence residing at the premises chosen by the close contact the close contact must inform the other person of their self-quarantine.

## **7 Testing of persons in self-quarantine**

- (1) If a close contact is required to self-quarantine under clause 6 and, during the period of self-quarantine, the person:

- (a) undertakes a test for SARS-CoV-2; and
- (b) the period of self-quarantine expires during the period in which the person is awaiting the result of that test for SARS-CoV-2,

the period of self-quarantine is extended until the person receives the result of the test for SARS-CoV-2.

*Note 1: persons who are in self-quarantine and experience a temperature higher than 37.5 degrees or symptoms of acute respiratory infection are encouraged to get tested. In certain circumstances, a person may be required to comply with an order that they undergo a medical test: PHW Act, section 113(3).*

*Note 2: in some circumstances, the Chief Health Officer or Deputy Chief Health Officer may consider it appropriate to exempt a person from the extension of the period of self-quarantine period under subclause (1), having regard to the need to protect public health and relevant principles in the PHW Act as they apply in the person's individual circumstances: clause 10.*

*Note 3: a person is not required to continue to self-quarantine under subclause (1) if the person is exempted in accordance with clause 10, either before or after the period of self-quarantine is extended pursuant to subclause (1).*

- (2) If a close contact is required to self-quarantine under clause 6 and, during the period of self-quarantine, the person receives a test result stating that they have been diagnosed with SARS-CoV-2, the person becomes a diagnosed person and must self-isolate under clause 4.
- (3) If a close contact is required to self-quarantine under clause 6 and, during the period of self-quarantine, the person receives a test result stating that they have not been diagnosed with SARS-CoV-2, the person:
  - (a) if the period of self-quarantine has not expired—must continue to self-quarantine under clause 6 for the remainder of the self-quarantine period; or
  - (b) if the period of self-quarantine was extended under subclause (1)—may cease self-quarantining immediately; or
  - (c) if the period of self-quarantine was extended under subclause (4)—may cease self-quarantining at the time referred to in subclause (4)(c)

and, if that time has already passed, may cease self-quarantining immediately.

- (4) If a close contact is required to self-quarantine under clause 6 and:
- (a) clause 6(3) applies to the person and the person refuses or otherwise fails to take a test for SARS-CoV-2 when offered on the sixth day of their period of self-quarantine; and
  - (b) clause 6(4) applies to the person and the person refuses or otherwise fails to take a test for SARS-CoV-2 when offered on the thirteenth day of their period of self-quarantine,

then the Chief Health Officer, a Deputy Chief Health Officer or an authorised officer authorised to exercise emergency powers under section 199(2)(a) of the PHW Act, may make a determination in relation to a person that the period of self-quarantine is extended until the earlier of:

- (c) a period specified in the notice (which must not exceed 14 days); or
- (d) the person receives a test result stating that they have not been diagnosed with SARS-CoV-2,

and must give the person notice of the decision.

*Note 1: close contacts of diagnosed persons will be offered a test for SARS-CoV-2 on day 6 (if the relevant period is 7 days) or day 13 (if the relevant period is 14 days), as testing at this time is likely to detect the presence of SARS-CoV-2 even if the person has not yet developed symptoms. As a person may be infectious for up to 14 days after the 14 day incubation period, if this test for SARS-CoV-2 does not occur an authorised officer may give a further direction under section 200(1)(d) and subclause (4) to extend the period of self-quarantine for an additional period, being the period specified in the notice (which must not exceed 14 days) or the person receives a test result stating that they have not been diagnosed with SARS-CoV-2 (whichever is earlier). Such extended period of self-quarantine is required to prevent a person who develops SARS-CoV-2 towards the end of the likely incubation period, even if not symptomatic, transmitting SARS-CoV-2 to the broader community.*

*Note 2: in some circumstances, the Chief Health Officer or Deputy Chief Health Officer may consider it appropriate to exempt a person from the extension of the period of self-quarantine period under subclause (4) under clause 10, having regard to the need to protect public health and relevant principles in the PHW Act as they apply in the person's individual circumstances.*

*Note 3: a person is not required to continue to self-quarantine under subclause (4) if the person is exempted in accordance with clause 10, either before or after the period of self-quarantine is extended under subclause (4).*

- (5) For the purposes of subclause (4), the notice must be given in writing but is not required to be in a particular form.

## **8 Exposed persons**

### *Notifications by the operator*

- (1) An operator of a work premises or an education facility who has been informed under clause 4(10) that a diagnosed person attended an indoor



space at that work premises or education facility during the diagnosed person's infectious period, must take reasonable steps to notify their employees or persons enrolled at the education facility who were present in the same indoor space as the diagnosed person during their infectious period, as the case may be, that those employees or persons enrolled at the education facility:

- (a) may have been exposed to SARS-CoV-2; and
- (b) must undertake a test for SARS-CoV-2 within 24 hours of receiving the notification under subclause (a) that they may have been exposed to SARS-CoV-2; and
- (c) must notify the operator of the work premises or education facility of their test result.

#### *Self-quarantine of exposed persons*

- (2) A person who has been notified under subclause (1) that they may have been exposed to SARS-CoV-2 must:
  - (a) self-quarantine immediately from the time they were notified that they may have been exposed to SARS-CoV-2; and
  - (b) undertake a test for SARS-CoV-2 within 24 hours of being notified that they may have been exposed to SARS-CoV-2; and
  - (c) remain in self-quarantine until they receive a negative test for SARS-CoV-2 result; and
  - (d) notify the operator of the relevant work premises or education facility of their test result.

*Note: the exposed person's parent, guardian or carer may notify the operator of the education facility on behalf of the exposed person, for the purpose of subclause (d).*

#### *Collection of information by operators*

- (3) The operator of a work premises or education facility must collect, record and store the following information:
  - (a) a list of employees or persons enrolled at the education facility who have been notified under subclause (1) that they may have been exposed to SARS-CoV-2; and
  - (b) the results of the tests for SARS-CoV-2 of those employees or persons enrolled at the education facility who may have been exposed to SARS-CoV-2.
- (4) For the purposes of complying with this clause, an operator of a work premises or education facility is authorised to use any information that it holds under subclause (3).

#### *Notification of exposure by the Department*

- (5) A person who has been notified by the Department that they may have been exposed to SARS-CoV-2 must:

- (a) self-quarantine immediately from the time they were notified that they may have been exposed to SARS-CoV-2; and
- (b) undertake a test for SARS-CoV-2 within 24 hours of being notified that they may have been exposed to SARS-CoV-2; and
- (c) remain in self-quarantine until they receive a negative test for SARS-CoV-2 result.

## 9 Requirements of self-isolation and self-quarantine

- (1) This clause applies to a person who is required to:
  - (a) self-isolate at a premises under clause 4; or
  - (b) self-quarantine at a premises under clause 6.
- (2) The person identified in subclause (1):
  - (a) must reside at the premises for the entirety of the period of self-isolation or self-quarantine, as the case requires, except for any period that the person is admitted to a hospital or other facility for the purposes of receiving medical care; and
  - (b) must not leave the premises, except:
    - (i) for the purposes of obtaining medical care or medical supplies; or
    - (ii) for the purposes of getting tested for SARS-CoV-2; or
    - (iii) in any emergency situation; or
    - (iv) if required to do so by law; or
    - (v) for the purposes of visiting a patient in hospital if permitted to do so under the **Hospital Visitor Directions**; or
    - (vi) for the purposes of working in a care facility if permitted to do so under the **Care Facilities Directions**; or
    - (vii) for the purpose of sitting a **Senior Secondary examination** provided that the person is not a diagnosed person; or
    - (viii) where:
      - (A) the person is a close contact but is not residing at the same premises where a diagnosed person is self-isolating; and
      - (B) the person:
        - 1. was enrolled at an education facility at the time they became a close contact; and
        - 2. is **unvaccinated** or an excepted person,

to attend that education facility for a **relevant purpose** on and from day 8 of their period of self-quarantine, only if the person or the person's parent, guardian or carer:

      - (C) obtains confirmation from the operator of the education facility that it is maintaining a system to collect, hold and

- record the information provided to it under subclauses (D) and (E);
- (D) provides **acceptable evidence** to the operator of the education facility prior to the person's first attendance at the education facility since becoming a close contact that the person:
1. is not residing with a diagnosed person; and
  2. has undertaken a test for SARS-CoV-2 on day 6 of their period of self-quarantine and received a test result that they have not been diagnosed with SARS-CoV-2; and
- (E) provides acceptable evidence to the operator of the education facility prior to the person entering an indoor space at the education facility on each day on and from day 8 of their period of self-quarantine that the person has undertaken a **SARS-CoV-2 rapid antigen test** and received a negative test result; and
- (c) must not permit any other person to enter the premises unless:
- (i) that other person:
    - (A) ordinarily resides at the premises; or
    - (B) is required to self-isolate or self-quarantine at the premises under these directions; or
  - (ii) it is necessary for the other person to enter for medical or emergency purposes; or
  - (iii) the other person is a **disability worker**, and it is necessary for the disability worker to enter for the purpose of providing a **disability service** to a person with a **disability**; or
  - (iv) it is necessary for the other person to enter for the purpose of providing personal care or household assistance to the person as a result of that person's age, disability or chronic health condition; or
 

*Examples: personal care includes assistance with showering, toileting, eating; household assistance includes help with cooking, house cleaning, laundry and gardening.*
  - (v) the entry is otherwise required or authorised by law.
- (3) A person who is required to complete a SARS-CoV-2 rapid antigen test in accordance with subclause (2)(b)(viii)(E) must:
- (a) undertake a second SARS-CoV-2 rapid antigen test as soon as possible if the person receives an invalid test result from the SARS-CoV-2 rapid antigen test, such that it is not possible to conclude that the result is a negative test result; and

- (b) if the result of the first SARS-CoV-2 rapid antigen test is positive, or the result of the second SARS-CoV-2 rapid antigen test is invalid, such that it is not possible to conclude that the result is negative:
  - (i) complete a test for SARS-CoV-2 within 24 hours; and
  - (ii) not attend the education facility until the person receives a negative test for SARS-CoV-2 result.
- (4) In the event that a person receives a positive test result from either a SARS-CoV-2 rapid antigen test or a test for SARS-CoV-2 referred to in subclauses (2)(b)(viii)(2)(b)(viii)(D), (2)(b)(viii)(E) and (3), the person or the person's parent, guardian or carer must notify the operator of the education facility of the test result by the next day that the education facility is operational following receipt of the test result.
- (5) The operator of an education facility may maintain a system to collect, hold and record the information provided to it under subclauses (2)(b)(viii)(D), (2)(b)(viii)(E) and (4).
- (6) An operator of an education facility is authorised to use any information that it has been provided under the system maintained under subclause (5).
- (7) Subclause (2)(c) does not apply to a person who is a **resident** of a care facility.

*Note: the **Care Facilities Directions** govern who can enter a care facility.*

- (8) Despite subclause (2)(a):
  - (a) a diagnosed person who is required to self-isolate; or
  - (b) a close contact who is required to self-quarantine,may apply under clause 10(6) to the Chief Health Officer, a Deputy Chief Health Officer, a **Director or Medical Lead of a designated Local Public Health Unit** for an exemption from the requirement to remain at the premises chosen for the purposes of subclause (2)(a) for the purpose of moving to an alternate premises for the remainder of the period of self-quarantine or self-isolation.
- (9) Despite subclause (2)(a), a **healthcare worker** who is a close contact and required to self-quarantine, may apply to the Chief Health Officer, a Deputy Chief Health Officer or a Director or Medical Lead of a designated Local Public Health Unit under clause 10(10) for an exemption from the requirement to remain at the premises chosen for the purposes of subclause (2)(a) for the purpose of a healthcare worker who is a close contact returning to work.

## 10 Exemption power

### *General exemption power*

- (1) A person is not required to comply with a requirement of these directions if the person is granted an exemption from that requirement under subclause (2).

- (2) The Chief Health Officer or Deputy Chief Health Officer may exempt a person or a 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 PHW Act, as appropriate.
- (3) An exemption under subclause (2) must:
  - (a) be given, in writing, to the person or a group of persons the subject of the exemption; and
  - (b) specify the requirement or requirements that the person or a group of persons need not comply with.
- (4) An exemption granted to a person or group of persons under this clause does not prevent an authorised officer from exercising an emergency power to give a person or a group of persons a different direction or impose a different requirement on the person or group of persons.

*Exemption power – alternate premises for self-quarantine or self-isolation*

- (5) A person is not required to comply with the requirement to remain at the premises chosen for the purposes of clause 9(2)(a) for the purpose of moving to an alternate premises for the remainder of the period of self-isolation or self-quarantine if the person is granted an exemption from the requirement under subclause (6).
- (6) The Chief Health Officer, a Deputy Chief Health Officer or a Director or Medical Lead of a designated Local Public Health Unit may exempt a person or group of persons from any or all requirements in clauses 4(3), 4(4) (location of self-isolation) or 6(6) (location of self-quarantine) or 9(2)(a), if satisfied that an exemption from a requirement is appropriate having regard to the:
  - (a) need to protect public health; and
  - (b) principles in sections 5 to 10 of the PHW Act, as appropriate.
- (7) An exemption under subclause (6) must:
  - (a) be given, in writing, to the person the subject of the exemption; and
  - (b) specify the requirement or requirements that the person need not comply with.
- (8) An exemption granted to a person under subclause (6) does not prevent an authorised officer from exercising an emergency power to give the person a different direction or impose a different requirement on the person.

*Exemption power – healthcare worker who is a close contact - return to work*

- (9) A healthcare worker who is a close contact is not required to comply with a requirement to remain at the premises chosen for the purposes of clause 9(2)(a) for the purpose of the healthcare worker returning to work if the person is granted an exemption from the requirement under subclause (10).

- (10) The Chief Health Officer, a Deputy Chief Health Officer, a Director or Medical Lead of a designated Local Public Health Unit may exempt a person from any or all of the requirements of clause 6(6) (location of self-quarantine) or clause 9(2)(a), if satisfied that an exemption from that requirement is appropriate having regard to the:
- (a) need to protect public health; and
  - (b) principles in sections 5 to 10 of the PHW Act, as appropriate.
- (11) An exemption under subclause (10) must:
- (a) be given, in writing, to the person the subject of the exemption; and
  - (b) specify the requirement or requirements that the person need not comply with.
- (12) An exemption granted to a person under subclause (10) does not prevent an authorised officer from exercising an emergency power to give the person a different direction or impose a different requirement on the person.

*Transitional provision — exemption*

- (13) Any exemption granted under any Revoked Isolation Direction continues to have effect.
- (14) Any application for exemption under any Revoked Isolation Direction continues to have effect.

## 11 Definitions

In these directions:

- (1) **acceptable evidence** means evidence of the matters described in subclauses 9(2)(2)(b)(viii)(D) and (2)(b)(viii)(E) that the relevant operator of the education facility determines is acceptable;
- (2) **accommodation premises** has the same meaning as in the **Open Premises Directions**;
- (3) **adult education or higher education premises** means a premises that operates for the purpose of providing **higher education services**;
- (4) **authorised officer** has the same meaning as in the **PHW Act**;
- (5) **Care Facilities Directions** means the **Care Facilities Directions (No 50)** as amended or replaced from time to time;
- (6) **care facility** has the same meaning as in the **Care Facilities Directions**;
- (7) **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'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;

- (8) **clearance from self-isolation** has the meaning in clause 5(1);
- (9) **close contact** has the meaning in clause 6(1);
- (10) **COVID-19 Mandatory Vaccination (Workers) Directions** means the **COVID-19 Mandatory Vaccination (Workers) Directions (No 8)** as amended or replaced from time to time;
- (11) **COVID-19 vaccine** means a vaccine to protect a person against SARS-CoV-2 that:
  - (a) has been registered or provisionally registered by the Therapeutic Goods Administration; or
  - (b) 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;
- (12) **Department** means the Victorian Department of Health;
- (13) **Departmental Requirements** means the document titled 'Case, Contact and Outbreak Management Policy', as amended or reissued from time to time by the Victorian Government with the approval of the Chief Health Officer or a Deputy Chief Health Officer;
- (14) **designated Local Public Health Unit** means:
  - (a) Western Public Health Unit;
  - (b) South Eastern Public Health Unit;
  - (c) North Eastern Public Health Unit;
  - (d) Barwon South West Public Health Unit;
  - (e) Grampians Wimmera Southern Mallee Public Health Unit;
  - (f) Loddon-Mallee Public Health Unit;
  - (g) (Hume) Goulburn Valley Public Health Unit;
  - (h) (Hume) Albury-Wodonga Public Health Unit;
  - (i) Gippsland Public Health Unit;
- (15) **diagnosed person** has the meaning in clause 4(1);
- (16) **Director or Medical Lead of a designated Local Public Health Unit** means a person with the title of Director or Medical Lead in a **designated Local Public Health Unit** who is authorised under section 199(2)(a) of the **PHW Act** to exercise **emergency powers** or to exercise public health risk powers;
- (17) **education facility** means:
  - (a) premises at which a **childcare or early childhood service** is provided;

- (b) premises at which an outside school hours care service is provided;
  - (c) a **school**;
  - (d) **school boarding premises**;
  - (e) for the purpose of clause 9 only, an **adult education or higher education premises**;
- (18) **emergency powers** has the same meaning as in the **PHW Act**;
- (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) **excepted person** has the same meaning as in the **Open Premises Directions**;
- (22) **exemption** means an exemption granted by the Chief Health Officer or the Deputy Chief Health Officer, or a **Director or Medical Lead of a designated Local Public Health Unit** under clause 10(2), 10(6), 10(10) of these directions or the equivalent provision in any **Revoked Isolation Direction**;
- (23) **fully vaccinated** has the same meaning as in the **Open Premises Directions**;
- (24) **healthcare worker** means a **worker** of a health service managed by a **designated Local Public Health Unit**;
- (25) **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, senior secondary certificates and other post-compulsory education or training;
- (26) **hospital** has the same meaning as in the **Hospital Visitor Directions**;
- (27) **Hospital Visitor Directions** means the **Hospital Visitor Directions (No 40)** as amended or replaced from time to time;
- (28) **indoor space** means an area, room or premises that is or are substantially enclosed by a roof and walls that are either floor to ceiling high or are at least 2.1 metres high, regardless of whether the roof or walls or any part of them are:
- (a) permanent or temporary; or
  - (b) open or closed;
- (29) **infectious period** means the period:
- (a) commencing:
    - (i) if the person undertook a **test for SARS-CoV-2** (from which they were diagnosed with SARS-CoV-2) without experiencing symptoms of SARS-CoV-2, 48 hours before the person undertook the **test for SARS-CoV-2**; or
    - (ii) if the person was experiencing symptoms of SARS-CoV-2 at the time they undertook a **test for SARS-CoV-2** (from which they



were diagnosed with SARS-CoV-2), 48 hours before the person first experienced symptoms; and

- (b) concluding:
  - (i) 10 days after the date on which the person undertook the **test for SARS-CoV-2** (from which they were diagnosed with SARS-CoV-2); or
  - (ii) such other time as specified by an officer or nominated representative of the Department;
- (30) **Open Premises Directions** means the **Open Premises Directions (No 7)** as amended or replaced from time to time;
- (31) **outbreak** means a declaration made by the Chief Health Officer, a Deputy Chief Health Officer, a **Director or Medical Lead of a designated Local Public Health Unit** in relation to a specific location at which **diagnosed persons** were present at a specific time, which presents a public health risk of the transmission of SARS-CoV-2;
- (32) **premises** means:
  - (a) a building, or part of a building; and
  - (b) any land on which the building is located, other than land that is available for communal use;
- (33) **relevant purpose** means the purpose of:
  - (a) participating in any activity that is onsite at the **education facility** other than at an **adult education or higher education premises**; or
  - (b) for secondary school students, undertaking a senior secondary certificate (the Victorian Certificate of Education (VCE) or the Victorian Certificate of Applied Learning (VCAL)) or Vocational Education and Training (VET) at an **adult education or higher education premises**;
- (34) **resident of a care facility** has the same meaning as in the **Care Facilities Directions**;
- (35) **Revoked Isolation Direction** means the following directions:
  - (a) **Isolation (Diagnosis) Direction**, given on 25 March 2020;
  - (b) **Isolation (Diagnosis) Direction (No 2)**, given on 13 April 2020;
  - (c) **Diagnosed Persons and Close Contacts Directions**, given on 11 May 2020;
  - (d) **Diagnosed Persons and Close Contacts Directions (No 2)**, given on 31 May 2020;
  - (e) **Diagnosed Persons and Close Contacts Directions (No 3)**, given on 21 June 2020;
  - (f) **Diagnosed Persons and Close Contacts Directions (No 4)**, given on 1 July 2020;
  - (g) **Diagnosed Persons and Close Contacts Directions (No 5)**, given on 15 July 2020;

- (h) **Diagnosed Persons and Close Contacts Directions (No 6)**, given on 19 July 2020;
- (i) **Diagnosed Persons and Close Contacts Directions (No 7)**, given on 22 July 2020;
- (j) **Diagnosed Persons and Close Contacts Directions (No 8)**, given on 3 August 2020;
- (k) **Diagnosed Persons and Close Contacts Directions (No 9)**, given on 13 August 2020;
- (l) **Diagnosed Persons and Close Contacts Directions (No 10)**, given on 16 August 2020;
- (m) **Diagnosed Persons and Close Contacts Directions (No 11)**, given on 13 September 2020;
- (n) **Diagnosed Persons and Close Contacts Directions (No 12)**, given on 11 October 2020;
- (o) **Diagnosed Persons and Close Contacts Directions (No 13)**, given on 8 November 2020;
- (p) **Diagnosed Persons and Close Contacts Directions (No 14)**, given on 6 December 2020;
- (q) **Diagnosed Persons and Close Contacts Directions (No 15)**, given on 3 January 2021;
- (r) **Diagnosed Persons and Close Contacts Directions (No 16)**, given on 29 January 2021;
- (s) **Diagnosed Persons and Close Contacts Directions (No 17)**, given on 26 February 2021;
- (t) **Diagnosed Persons and Close Contacts Directions (No 18)**, given on 15 March 2021;
- (u) **Diagnosed Persons and Close Contacts Directions (No 19)**, given on 26 March 2021;
- (v) **Diagnosed Persons and Close Contacts Directions (No 20)**, given on 27 March 2021;
- (w) **Diagnosed Persons and Close Contacts Directions (No 21)**, given on 9 April 2021;
- (x) **Diagnosed Persons and Close Contacts Directions (No 22)**, given on 7 May 2021;
- (y) **Diagnosed Persons and Close Contacts Directions (No 23)**, given on 3 June 2021;
- (z) **Diagnosed Persons and Close Contacts Directions (No 24)**, given on 1 July 2021;
- (aa) **Diagnosed Persons and Close Contacts Directions (No 25)**, given on 29 July 2021;

- (bb) **Diagnosed Persons and Close Contacts Directions (No 26)**, given on 26 August 2021;
  - (cc) **Diagnosed Persons and Close Contacts Directions (No 27)**, given on 23 September 2021;
  - (dd) **Diagnosed Persons and Close Contacts Directions (No 28)**, given on 29 September 2021;
  - (ee) **Diagnosed Persons and Close Contacts Directions (No 28)**, given on 30 September 2021;
  - (ff) **Diagnosed Persons and Close Contacts Directions (No 29)**, given on 19 October 2021;
  - (gg) **Diagnosed Persons and Close Contacts Directions (No 30)**, given on 21 October 2021;
  - (hh) **Diagnosed Persons and Close Contacts Directions (No 31)**, given on 23 October 2021;
  - (ii) **Diagnosed Persons and Close Contacts Directions (No 32)**, given on 29 October 2021;
  - (jj) **Diagnosed Persons and Close Contacts Directions (No 33)** given on 11 November 2021;
  - (kk) **Diagnosed Persons and Close Contacts Directions (No 34)** given on 18 November 2021;
- (36) **SARS-CoV-2 rapid antigen test** means a SARS-CoV-2 rapid antigen test;
  - (37) **school** means a registered school as defined in the **Education and Training Reform Act 2006**;
  - (38) **school boarding premises** means a registered school boarding premises, as defined in the **Education and Training Reform Act 2006**;
  - (39) **Senior Secondary examination** means an examination relating to a senior secondary certificate;
  - (40) **test for SARS-CoV-2** means a SARS-CoV-2 polymerase chain reaction test;
  - (41) **unvaccinated** has the same meaning as in the **COVID-19 Mandatory Vaccination (Workers) Directions**;
  - (42) **Work Premises** means the **premises** of an **employer** in which work is undertaken, including any vehicle whilst being used for work purposes, but excluding a **worker's** ordinary place of residence;
  - (43) **worker** includes **employees**, subcontractors (and their employees), volunteers and any other person engaged or permitted by an **employer** to perform work;
  - (44) the following expressions have the same meaning that they have in the **Disability Service Safeguards Act 2018**:
    - (a) **disability**;
    - (b) **disability service**;

- (c) **disability worker.**

## 12 Penalties

Section 203 of the PHW Act provides:

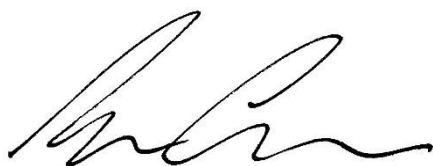
### **Compliance with direction or other requirement**

- (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.*



**Professor Benjamin Cowie**

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

25 November 2021