

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

## Stay Safe Directions (Victoria) (No 29)

*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 serious risk to public health—and reasonably necessary to protect public health—to give the following directions pursuant to section 200(1)(b) and (d) of the **Public Health and Wellbeing Act 2008 (Vic) (PHW Act)**:

### PART 1 — PRELIMINARY

#### 1 Preamble

- (1) The purpose of these directions is to address the serious public health risk posed to the State of Victoria by the spread of severe acute respiratory syndrome coronavirus 2 (**SARS-CoV-2**).
- (2) These directions must be read together with the **Directions currently in force**.
- (3) These directions replace the **Stay Safe Directions (Victoria) (No 28)**.
- (4) These directions require everyone who ordinarily resides in the State of Victoria to:
  - (a) limit interactions with others by restricting private and public gatherings; and
  - (b) carry and wear **face coverings** in certain settings.

#### 2 Citation

These directions may be referred to as the **Stay Safe Directions (Victoria) (No 29)**.

#### 3 Commencement and revocation

- (1) These directions commence at 11:59:00pm on 18 November 2021 and end at 11:59:00pm on 15 December 2021.
- (2) The **Stay Safe Directions (Victoria) (No 28)** are revoked at 11:59:00pm on 18 November 2021.

#### 4 Stay safe period

For the purposes of these directions, the stay safe period is the period beginning at 11:59:00pm on 18 November 2021 and ending at 11:59:00pm on 15 December 2021.

### PART 2 — STAY SAFE

#### 5 Direction — staying safe

##### *Work*

- (1) A person must not perform work outside of the person's ordinary place of residence or enter, or remain on, a **work premises** to perform work, if the **employer** of the person or the operator of their work premises, is not permitted to allow the person to do so under the **Open Premises Directions**, the **COVID-19 Mandatory Vaccination (Workers) Directions**, the **COVID-19 Mandatory Vaccination (Specified Facilities) Directions** or the **COVID-19 Mandatory Vaccination (General Workers) Directions**.

##### *Face covering requirements*

- (2) A person must:
- (a) carry a face covering at all times, except where subclause (3)(a), (b), (c), (d) or (e) applies; and
  - (b) wear a face covering:
    - (i) while in an **indoor space** at an **education premises** that is a primary **school** (including an outside school hours care service at a primary school) if:
      - (A) the person is a **worker**; or
      - (B) the person is a student in Year 3 or above, up to and including Year 6; or
      - (C) the person is a visitor at the education premises and aged 12 years or above; and
    - (ii) while in an indoor space at a **prison, remand centre, youth residential centre** or **youth justice centre** if the person is a worker; and
    - (iii) while in an indoor space that is a publicly accessible area of a **retail premises**; and
    - (iv) while in an indoor space that is a publicly accessible area of a **food and drink premises** (including a food court) if the person is a worker working at the food and drink premises; and
    - (v) while in an indoor space at a **court** that is:
      - (A) a publicly accessible area of a court; or
      - (B) a facility used for jury trials in a court; and

- (vi) while in an indoor space that is a **ceremonial space** if the person is a **patron** attending a **ceremony** in the ceremonial space and the ceremonial space is also attended by a patron/s who are not **fully vaccinated**; and
- (vii) while visiting a **hospital**; and
- (viii) while visiting a **care facility**; and
- (ix) while on **public transport** or in a **commercial passenger vehicle** or in a **vehicle** being operated by a **licensed tourism operator**; and
- (x) if the person is a diagnosed person or close contact and is leaving the premises in accordance with the **Diagnosed Persons and Close Contacts Directions**; and
- (xi) if the person has been tested for SARS-CoV-2 and is awaiting the results of that test, except where that test was taken as part of a surveillance or other asymptomatic testing program; and

*Note: the **Workplace (Additional Industry Obligations) Directions** set out the surveillance testing requirements for relevant industries and workers.*

- (c) wear a face covering where required to do so in accordance with any other Directions currently in force.

*Note 1: face shields on their own do not meet the face covering requirements. For further information, please refer to the Department of Health's guidelines as amended from time to time by the Victorian Government, available at: [www.coronavirus.vic.gov.au/face-masks](http://www.coronavirus.vic.gov.au/face-masks).*

*Note 2: it is strongly recommended that face coverings be worn in other situations when physical distancing is not possible.*

- (3) Subclauses 5(2)(b) and (c) do not apply if a person complies with any other requirements under any other Directions currently in force and:
  - (a) the person is an infant or a child under the age of 12 years except where subclause 5(2)(b)(i) applies; or
  - (b) the person is a **prisoner** in a prison (either in their cell or common areas), subject to any policies of that prison; or
  - (c) the person is detained in a remand centre, youth residential centre or youth justice centre (either in their room or common areas), subject to any policies of that centre; or
  - (d) the person has a physical or mental health illness or condition, or disability, which makes wearing a face covering unsuitable; or

*Examples: persons who have obstructed breathing, a serious skin condition on their face, an intellectual disability, a mental health illness, or who have experienced trauma.*

- (e) it is not practicable for the person to comply with subclauses 5(2)(b) or (c) because the person is escaping harm or the risk of harm, including harm relating to family violence or violence of another person; or
- (f) the person is communicating with a person who is deaf or hard of hearing and visibility of the mouth is essential for communication; or
- (g) the nature of a person's work or education means that wearing a face covering creates a risk to their health and safety; or
- (h) the nature of a person's work or education means that clear enunciation or visibility of the mouth is essential; or
  - Examples: teaching, lecturing, broadcasting.*
- (i) the person is working by themselves in an enclosed indoor space (unless and until another person enters that indoor space); or
  - Example: a person working by themselves in a classroom at an education premises after hours.*
- (j) the person is one of two persons being married, during their wedding ceremony, or while being photographed at the wedding; or
- (k) the person is a professional sportsperson when training or competing; or
- (l) the person is engaged in any strenuous physical exercise; or
  - Examples: jogging, running, swimming, cycling.*
- (m) the person is riding a bicycle or a motorcycle; or
- (n) the person is consuming:
  - (i) medicine; or
  - (ii) food or drink; or
- (o) the person is smoking or vaping (including e-cigarettes) while stationary; or
- (p) the person is undergoing dental or medical care or treatment to the extent that such care or treatment requires that no face covering be worn; or
- (q) the person is receiving a service and it is not reasonably practicable to receive that service wearing a face covering; or
- (r) the person is providing a service and it is not reasonably practicable to provide that service wearing a face covering; or
- (s) the person is an accused person in a criminal case in any court located in the State of Victoria and the person is in the dock either alone or with a co-accused, provided that any co-accused also present in the dock is at least 1.5 metres away from the person; or
- (t) the person is asked to remove the face covering to ascertain identity; or

*Example: a person may be asked by police, security, bank or post office staff to remove a face covering to ascertain identity or when purchasing alcohol or cigarettes.*

- (u) for emergency purposes; or
- (v) when required or authorised by law; or
- (w) when doing so is not safe in all the circumstances.

*Face covering requirements in airports and on aircraft*

- (4) Without limiting subclause 5(2)(b), during the stay safe period, a person in the State of Victoria at an **airport** or travelling in an **aircraft** must:
- (a) carry a face covering at all times, except where subclause (5)(a) or (b) applies; and
  - (b) wear a face covering while in an indoor space at an airport (and at all times while inside an aircraft); and
  - (c) wear a face covering where required to do so in accordance with any other Directions currently in force.

*Note: face shields on their own do not meet the face covering requirements. For further information, please refer to the Department of Health's guidelines as amended from time to time by the Victorian Government, available at: [www.coronavirus.vic.gov.au/face-masks](http://www.coronavirus.vic.gov.au/face-masks).*

- (5) Subclauses (4)(b) and (c) do not apply if a person complies with any other requirements under any other Directions currently in force and:
- (a) the person is an infant or a child under the age of 12 years; or
  - (b) the person has a physical or mental health illness or condition, or disability, which makes wearing a face covering unsuitable; or
- Examples: persons who have obstructed breathing, a serious skin condition on their face, an intellectual disability, a mental health illness, or who have experienced trauma.*
- (c) the person is communicating with a person who is deaf or hard of hearing and visibility of the mouth is essential for communication; or
  - (d) the nature of a person's work or education means that wearing a face covering creates a risk to their health and safety; or
  - (e) the nature of a person's work or education means that clear enunciation or visibility of the mouth is essential; or
- Examples: teaching, lecturing, broadcasting.*
- (f) the person is consuming food, drink or medicine; or
  - (g) the person is undergoing dental or medical care or treatment to the extent that such care or treatment requires that no face covering be worn; or
  - (h) the person is receiving a service and it is not reasonably practicable to receive that service wearing a face covering; or

- (i) the person is providing a service and it is not reasonably practicable to provide that service wearing a face covering; or
  - (j) the person is asked to remove the face covering to ascertain identity; or
    - Examples: a person may be asked by police, security, or airport staff to remove a face covering to ascertain identity or when purchasing alcohol or cigarettes.*
  - (k) for emergency purposes; or
  - (l) when required or authorised by law; or
  - (m) when doing so is not safe in all the circumstances.
- (6) An **authorised officer** may require a person to attest in writing that they have complied with the requirements of subclause (4) to wear a face covering on an aircraft (subject to subclause (5)).

## PART 3 — CEREMONIES

### 6 Ceremonies

#### *Organiser obligations — maintenance of system*

- (1) An **organiser** of a ceremony must maintain a system that requires a patron (except a patron under 12 years and 2 months of age) that attends the ceremonial space to show the organiser or a worker of the organiser **acceptable evidence** that records that they are either:
- (a) fully vaccinated; or
  - (b) an **excepted person**.

#### *Patron obligation — patrons must use system*

- (2) A patron (except a patron under 12 years and 2 months of age) who attends a ceremonial space for a ceremony must comply with the requirements of the system maintained under subclause (1).
- (3) A patron who is a dependant of another patron is deemed to have complied with subclause (2) if the other patron, on behalf of the dependant, complies with the requirements of the system maintained under subclause (1).

#### *Organiser obligation — exclusion of persons*

- (4) An organiser of a ceremony must take all reasonable steps to ensure that a patron who:
- (a) is not fully vaccinated; and
  - (b) is not an excepted person; or
  - (c) does not comply with the requirements of the system maintained by the operator under subclause (1),
- does not attend the ceremonial space for the ceremony.

*Note: this obligation does not apply in relation to patrons who are fully vaccinated or excepted persons (which includes children under 16 years of age) and have provided acceptable evidence.*

- (5) For the purposes of complying with subclause (4), an organiser is authorised to use any information about a patron that it has been provided under the system maintained under subclause (1).

*Patron obligation — no entry unless fully vaccinated or an excepted person*

- (6) A patron who is not:
- (a) fully vaccinated; or
  - (b) an excepted person,
- must not attend a ceremonial space for a ceremony.

*Worker requirements*

- (7) The organiser of a ceremony must not permit any person to work at the ceremonial space unless the person is:
- (a) fully vaccinated; or
  - (b) an excepted person; or
  - (c) a person who:
    - (i) conducts services of public worship and acknowledgments of faith; or
    - (ii) performs marriages, funerals and special memorial services according to tradition and ecclesiastical and civil law; or
    - (iii) visits members of the community in their homes, hospitals and other institutions to provide advice and religious comfort for the purpose of end of life faith reasons.
- (8) The organiser must collect, record and hold **vaccination information** about each fully vaccinated person and each excepted person who works at the ceremonial space.
- (9) For the purposes of complying with subclause (7) an organiser is authorised to use any information about a worker that it holds under subclause (8).
- (10) If an organiser is the employer of a fully vaccinated person or an excepted person who works at the premises:
- (a) the organiser is deemed to have complied with subclause (8) if they hold vaccination information about the person under the **COVID-19 Mandatory Vaccination (Workers) Directions**, the **COVID-19 Mandatory Vaccination (Specified Facilities) Directions**, **COVID-19 Mandatory Vaccination (General Workers) Directions** or the **Open Premises Directions**; and
  - (b) the organiser is authorised to use that information for the purposes of complying with subclause (7).

*Patron limits*

- (11) The obligations in subclauses (1) to (8) do not apply to an organiser of a ceremony if the organiser does not permit the number of patrons in all indoor spaces and outdoor spaces combined to exceed the lesser of:
- (a) **density quotient (4 sq metres)**; and
  - (b) 50.

## **PART 4 — OTHER PROVISIONS**

### **7 Relationship with other Directions**

- (1) If there is any inconsistency between Parts 2 and 3 of these directions and the **Diagnosed Persons and Close Contacts Directions**, Parts 2 and 3 of these directions are inoperative to the extent of any inconsistency.
- (2) If there is any inconsistency between these directions and a direction or other requirement contained in a **Direction and Detention Notice**, these directions are inoperative to the extent of the inconsistency.
- (3) If there is any inconsistency between these directions and a direction or other requirement contained in the **Care Facilities Directions**, these directions are inoperative to the extent of the inconsistency.
- (4) Unless the context otherwise requires, a reference in any Directions currently in force, in any Direction and Detention Notice, or in any approved form under a Direction currently in force or a Direction and Detention Notice to:
  - (a) a Direction currently in force or these directions, or a defined term in a Direction currently in force or these directions, will be taken to mean that direction (and hence that defined term) as amended or replaced from time to time; or
  - (b) an earlier version of a particular Direction currently in force or these directions will be taken to be a reference to the current version of that particular direction.

### **8 Definitions**

For the purposes of these directions:

- (1) **acceptable evidence** has the same meaning as in the **Open Premises Directions**;
- (2) **aircraft** means an aircraft that is mainly used for the purpose of, or is engaged, or is intended or likely to be engaged, in a flight wholly within Australia;
- (3) **airport** means an aerodrome at which facilities are available for the arrival or departure of **aircraft** into or from the State of Victoria;
- (4) **authorised officer** has the same meaning as in the **PHW Act**;
- (5) **bus company** has the same meaning as in **Transport (Compliance and Miscellaneous) Act 1983**;



- (6) **Care Facilities Directions** means **Care Facilities Directions (No 50)** as amended or replaced from time to time;
- (7) **care facility** has the same meaning as in the **Care Facilities Directions**;
- (8) **ceremonial space** means the premises or land on which a **ceremony** is held;
- (9) **ceremony** means a religious gathering, a wedding or a funeral that is held at any **premises** or land that is not a private residence or an 'open premises' within the meaning of the **Open Premises Directions**;
- (10) **commercial passenger vehicle** has the same meaning as in the **Workplace Directions**;
- (11) **court** means any **premises** in the State of Victoria that is:
  - (a) the Supreme Court; or
  - (b) the County Court; or
  - (c) the Magistrates' Court; or
  - (d) the Children's Court; or
  - (e) any Federal Court; or
  - (f) the Coroner's Court; or
  - (g) the Victorian Civil and Administrative Tribunal; or
  - (h) any other court or tribunal of Victoria conducting in-person hearings;
- (12) **COVID-19 Mandatory Vaccination (General Workers) Directions** means the **COVID-19 Mandatory Vaccination (General Workers) Directions (No 3)** as amended or replaced from time to time;
- (13) **COVID-19 Mandatory Vaccination (Specified Facilities) Directions** means the **COVID-19 Mandatory Vaccination (Specified Facilities) Directions (No 13)** as amended or replaced from time to time;
- (14) **COVID-19 Mandatory Vaccination (Workers) Directions** means the **COVID-19 Mandatory Vaccination (Workers) Directions (No 8)** as amended or replaced from time to time;
- (15) **density quotient (4 sq metres)** has the same meaning as in the **Open Premises Directions**;
- (16) **Diagnosed Persons and Close Contacts Directions** means the **Diagnosed Persons and Close Contacts Directions (No 34)** as amended or replaced from time to time;
- (17) **Direction and Detention Notice** means a notice given to a person requiring the person to be detained for a specified period;
- (18) **Directions currently in force** means the **Open Premises Directions**, the **Stay Safe Directions (Victoria)**, the **Diagnosed Persons and Close Contacts Directions**, the **Hospital Visitor Directions**, the **Care Facilities Directions**, the **Workplace Directions**, the **Victorian Border Crossing Permit Directions**, the **Workplace (Additional Industry Obligations)**

**Directions**, the **COVID-19 Mandatory Vaccination (General Workers) Directions**, the **COVID-19 Mandatory Vaccination (Specified Facilities) Directions**, and the **COVID-19 Mandatory Vaccination (Workers) Directions**, each as amended or replaced from time to time;

- (19) **education premises** means:
  - (a) a **school**; or
  - (b) a school boarding premises; or
  - (c) a **premises** that provides outside school hours care services;
- (20) **employer** has the same meaning as in the **Workplace Directions**;
- (21) **excepted person** has the same meaning as in the **Open Premises Directions**;
- (22) **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);
- (23) **food and drink premises** has the same meaning as in the **Open Premises Direction**.
- (24) **fully vaccinated** has the same meaning as in the **Open Premises Directions**;
- (25) **hospital** has the same meaning as in the **Hospital Visitor Directions**;
- (26) **Hospital Visitor Directions** means the **Hospital Visitor Directions (No 40)** as amended or replaced from time to time;
- (27) **indoor space** means an area, room or **premises** that is or are substantially enclosed by a roof and walls that are permanent structures rising either from floor to ceiling or are at least 2.1 metres high, regardless of whether the roof or walls or any part of them are open or closed;
- (28) **licensed tourism operator** has the same meaning as in the **Open Premises Directions**;
- (29) **national security** has the meaning that security has in the **Australian Security Intelligence Organisation Act 1979** of the Commonwealth;
- (30) **Open Premises Directions** means the **Open Premises Directions (No 5)** as amended or replaced from time to time;
- (31) **organiser** means a person who is primarily responsible for organising a **ceremony**;
- (32) **outdoor space** means a space that is not an **indoor space**;
- (33) **patron** means any person who attends a **ceremony**, except:
  - (a) a person under 1 year of age;
  - (b) a worker;
  - (c) a person who attends the premises in connection with an emergency;

- (34) **passenger transport company** has the same meaning as in **Transport (Compliance and Miscellaneous) Act 1983**;
- (35) **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;
- (36) **prison** has the same meaning as in the **Corrections Act 1986**;
- (37) **prisoner** has the same meaning as in the **Corrections Act 1986**;
- (38) **public transport** means a vehicle operated by a **passenger transport company** or by a **bus company** in the provision of **public transport service**;
- (39) **public transport service** has the same meaning as in **Transport (Compliance and Miscellaneous) Act 1983**;
- (40) **remand centre** has the same meaning as in the **Children, Youth and Families Act 2005**;
- (41) **retail premises** means a **premises** that is used wholly or predominantly for the sale or hire of goods by retail, or the retail provision of services.
- (42) **school** means a registered school as defined in the **Education and Training Reform Act 2006**;
- (43) **stay safe period** has the meaning in clause 4;
- (44) **vehicle** has the same meaning as in the **PHW Act**;
- (45) **Victorian Border Crossing Permit Directions** means the **Victorian Border Crossing Permit Directions (No 39)** as amended or replaced from time to time;
- (46) **work premises** has the same meaning as in the **Workplace Directions**;
- (47) **worker** means any person engaged or employed by either:
  - (a) an operator of a **premises** to work at the premises; or
  - (b) an **organiser** to work at the **ceremonial space**;
- (48) **Workplace (Additional Industry Obligations) Directions** means the **Workplace (Additional Industry Obligations) Directions (No 57)** as amended or replaced from time to time;
- (49) **Workplace Directions** means the **Workplace Directions (No 56)** as amended or replaced from time to time;
- (50) **youth justice centre** has the same meaning as in the **Children, Youth and Families Act 2005**;
- (51) **youth residential centre** has the same meaning as in the **Children, Youth and Families Act 2005**.

## 9 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.

18 November 2021