

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

## Victorian Border Crossing Permit Directions (No 40)

*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 sections 200(1)(b) and (d) of the **Public Health and Wellbeing Act 2008 (Vic) (PHW Act)**:

### 1 Preamble

- (1) These directions replace the **Victorian Border Crossing Permit Directions (No 39)** and provides a scheme for persons entering Australia as an **international passenger arrival** or **international aircrew services worker**, in order to limit 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**.

### 2 Citation

These directions may be referred to as the **Victorian Border Crossing Permit Directions (No 40)**.

### 3 Commencement and revocation

- (1) The **Victorian Border Crossing Permit Directions (No 39)** are revoked at 6:00:00pm on 25 November 2021.
- (2) These directions commence at 6:00:00pm on 25 November 2021 and end at 11:59:00pm on 15 December 2021.
- (3) Any **permit** issued under a **revoked Border Crossing Permit Scheme Direction** continues to have effect until the validity period expires under the revoked Border Crossing Permit Scheme Direction.

*Note: a person who has a permit under previous directions may continue to enter Victoria under that permit.*

#### 4 Restrictions on persons entering Victoria

- (1) A person may enter Victoria under these directions from another Country, if the person is an:
  - (a) **international aircrew services worker** under clause 5; or
  - (b) **international passenger arrival** under clause 6.
- (2) These directions do not apply to a person who enters Victoria from another Country who is not an international passenger arrival under clause 6 or an international aircrew services worker under subclauses 5(1) and 5(4).

*Note: a person who is not covered as an international passenger arrival under clause 6 or an international aircrew services worker under clause 5 is not excluded from entering Victoria but is not governed by these directions.*

#### 5 International aircrew

##### *Eligibility*

- (1) Subject to subclause (2), a person who is an international aircrew services worker may enter Victoria from another Country if the person:
  - (a) is **fully vaccinated**; or
  - (b) is a **medically exempt person**.
- (2) A person who enters Victoria as an international aircrew services worker under subclause (1) and is completing a layover of 48 hours or longer in Victoria must have completed a pre-departure **SARS-CoV-2 rapid antigen test** within 24 hours of scheduled departure for Victoria and if the person received:
  - (a) a negative test result from the SARS-CoV-2 rapid antigen test, the person is not required to undertake further testing; or
  - (b) a positive test result from the SARS-CoV-2 rapid antigen test, the person must complete a **SARS-CoV-2 PCR test** and isolate until receiving 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 adhere to post-arrival SARS-CoV-2 rapid antigen testing requirements in subclause (4); 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.

*International aircrew - Obligations after entry*

- (4) A person who enters Victoria as an international aircrew services worker under subclause (1):
  - (a) must comply with the **general post-entry conditions**; and
  - (b) if completing a layover of 48 hours or longer in Victoria, must:
    - (i) complete a SARS-CoV-2 rapid antigen test within 24 hours of arrival in Victoria; and
    - (ii) if the SARS-CoV-2 rapid antigen test is positive, complete a SARS-CoV-2 PCR test and isolate until the person receives a negative test result; and
  - (c) 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.
- (5) If an international aircrew services worker who is fully vaccinated enters Victoria under subclause (1)(a), that person must, in addition to complying with the obligations specified in subclause (4), not attend a **residential aged care facility**, a **disability residential service** or a **hospital** (unless the person is obtaining urgent medical care) for 7 days after entering Victoria, unless:
  - (a) the worker has completed a SARS-CoV-2 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 SARS-CoV-2 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.
- (6) If an international aircrew services worker who is a medically exempt person enters Victoria under subclause (1)(b), that person must, in addition to complying with the obligations specified in subclause (4), not attend an **educational facility**, **childcare or early childhood services**, a **residential aged care facility**, a **disability residential service** or a **hospital** (unless the person is obtaining urgent medical care) for 14 days after entering Victoria.

## 6 International passenger arrivals

### *Eligibility*

- (1) A person may enter Victoria from another Country as an international passenger arrival if the person, at the time they enter 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.

### *Requirements for entry*

- (2) An international passenger arrival may enter Victoria if the person:
- (a) is either:
    - (i) 12 years and 2 months of age or above; or
    - (ii) younger than 12 years and 2 months of age and travelling unaccompanied; and
  - (b) obtains a valid **international passenger arrival permit** which includes:
    - (i) the person's **personal details**; and
    - (ii) 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:
      - (A) meets the requirements in subclause (1); and
      - (B) has provided information in the permit that is true and correct; and
      - (C) will comply with the **international passenger arrival conditions**; and
    - (iii) 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: 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.*

*International passenger arrival conditions after entry*

- (3) An international passenger arrival who enters Victoria under subclause (1) must, for 14 days after entering Victoria:
- (a) comply with all **general post-entry conditions**; and
  - (b) complete a SARS-CoV-2 PCR test within 24 hours of arrival in Victoria and again between the fifth and seventh day of arrival in Victoria; and
  - (c) 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 vaccinated 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) evidence of their SARS-CoV-2 PCR test results that were carried out less than 24 hours and between the fifth and seventh day after arriving in Victoria in accordance with subclause (b); 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.
- (4) If a fully vaccinated person aged 12 years and 2 months of age or above enters Victoria under subclause (1)(a), that person must, in addition to complying with the obligations specified in subclause (3), not attend an educational facility, childcare or early childhood services, a residential aged care facility, a disability residential service or a hospital (unless the person is obtaining urgent medical care) for 7 days after entering Victoria, unless:
- (a) the person has completed a SARS-CoV-2 PCR test and returned a negative result within 24 hours prior to visiting the educational facility,

childcare or early childhood services, a residential aged care facility, a disability residential service or a hospital; or

- (b) the person has completed a SARS-CoV-2 rapid antigen test and returned a negative test result on the day they are visiting the educational facility, childcare or early childhood services, a residential aged care facility, a disability residential service or a hospital.
- (5) If a person who is neither fully vaccinated nor a medically exempt person enters Victoria under subclause (1)(c), that person must, in addition to the obligations specified in subclause (3):
- (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 a period of 7 days; and
  - (b) remain in self-quarantine unless undertaking **essential activities** for the period specified in subclause (a); and
  - (c) wear a face covering whenever leaving the premises for the purposes permitted in subclause (b) (unless, in accordance with the Directions currently in force, an exception applies); and
  - (d) not attend an educational facility:
    - (i) for 7 days after entering Victoria; and
    - (ii) until they have received a negative result from their SARS-CoV-2 PCR test carried out between the fifth and seventh day after arrival, in accordance with subclause (3)(b); and
  - (e) not attend childcare or early childhood services, a residential aged care facility, a disability residential service or a hospital, unless obtaining urgent medical care, for 14 days after entering Victoria.

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

- (6) If a medically exempt person aged 18 years or older enters Victoria under subclause (1)(a), that person must, in addition to the obligations specified in subclause (3), not attend an educational facility, childcare or early childhood services, a residential aged care facility, a disability residential service or a hospital (unless obtaining urgent medical care) for 14 days after entering Victoria.
- (7) If a medically exempt person aged at least 12 years and 2 months and less than 18 years enters Victoria under subclause (1)(a), that person must, in addition to the obligations specified in subclause (3):
- (a) not attend an educational facility:
    - (i) for 7 days after entering Victoria; and

- (ii) until they have received a negative result from their SARS-CoV-2 PCR test carried out between the fifth and seventh day after arrival in accordance with subclause (3)(b); and
  - (b) not attend a childcare or early childhood services, a residential aged care facility, a disability residential service or a hospital (unless obtaining urgent medical care) for 14 days after entering Victoria.
- (8) A person younger than 12 years and 2 months of age who enters Victoria under subclause (1)(b) must, in addition to the obligations specified in subclause (3):
- (a) not attend an educational facility:
    - (i) for 7 days after entering Victoria; and
    - (ii) until they have received a negative result from their SARS-CoV-2 PCR test carried out between the fifth and seventh day after arrival, in accordance with subclause (3)(b); and
  - (b) not attend childcare or early childhood services, a residential aged care facility, a disability residential service or a hospital, unless obtaining urgent medical care, for 14 days after entering Victoria.

*Permit validity and revocation*

- (9) An international passenger arrival permit:
- (a) is valid for 14 days from the date the person first enters Victoria (unless revoked earlier); and
  - (b) may only be used once by a person to enter Victoria during the validity period in subclause (a).

## **7 Applications for a permit**

- (1) A person may apply for a permit using a digital system provided by the **Service Victoria CEO** and other parts of the Victorian Government.
- (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 6 (***international passenger arrivals***) applies, the person makes an application under subclause (1) and the application complies with the requirements under subclause (2); and
  - (a) may provide a copy of the permit to the Department; and
  - (b) will provide any information contained in an application to the Department on behalf of the person.

- (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.

## **8 Exemption power**

### *Request for exemption*

- (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 (6).
- (2) A person may request an exemption by:
  - (a) using a digital system provided by the Service Victoria CEO and other parts of the Victorian Government; 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.

### *Exemptions, generally*

- (5) A person may request an exemption from any or all requirements contained in these directions.
- (6) 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 PHW Act, as appropriate.
- (7) Before granting any exemption under subclause (6) 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.



- (8) An exemption under subclause (6):
- (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.
- (9) An exemption granted under subclause (6) does not prevent an authorised officer from exercising an emergency power to give the person or group of persons a different direction or impose a different requirement on the person or group of persons.

*Conditions of exemption*

- (10) A person who receives an exemption under subclause (6) 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 at a particular point of entry into Victoria under subclause (8)(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.
- (11) Nothing in subclauses (1) to (10) prevents an authorised officer from exercising an emergency power to give a person a different direction or impose a different requirement or condition of exemption on the person.

## **9 Definitions**

In these directions:

(1) **acceptable certification** has the same meaning as in the **Open Premises Directions**;

(2) **acceptable form of identification** means:

(a) subject to subclauses (b) and (c), 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.*

(b) if the person is unable to provide photographic personal identification in accordance with subclause (a), 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.*

(c) if the person is unable to provide evidence of the current address where the person ordinarily resides in accordance with subclause (a), 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.*

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

(a) 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

(b) is required by their employer to attend facilities in Victoria for the purpose of undertaking simulator training or emergency procedures training;

(4) **authorised officer** has the same meaning as in the **PHW Act**;

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

- (a) **Children’s Services Act 1996** including limited hours services, budget based funded services, occasional care services, early childhood intervention services, mobile services and (if applicable) school holiday care programs; or
  - (b) **Education and Care Services National Law Act 2010** and the **Education and Care Services National Regulations 2011** including long day care services, kindergarten/preschool and family day care services, but does not include outside school hours care services;
- (6) **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;
- (7) **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;
- (8) **COVID-19 Mandatory Vaccination (Workers) Directions** means the **COVID-19 Mandatory Vaccination (Workers) Directions (No 8)** as amended or replaced from time to time;
- (9) **COVID-19 vaccine** means a vaccine to protect a person against SARS-CoV-2 that:
- (a) has been registered, provisionally registered or recognised 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;
- (10) **COVIDSafe Plan** has the same meaning as in the **Workplace Directions**;
- (11) **Department** means the Victorian Department of Health;
- (12) **Directions currently in force** has the same meaning as in the **Workplace Directions**;
- (13) **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”.*
- (14) **educational facility** has the same meaning as in the **COVID-19 Mandatory Vaccination (Specified Facilities) Directions**;
- (15) **essential activities** means;
- (a) obtaining medical care or medical supplies; or
  - (b) obtaining a **SARS-CoV-2** test; or

- (c) responding to an emergency situation; or
  - (d) activities required to comply with any law; or
  - (e) departing the State of Victoria;
- (16) **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);
- (17) **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**;
- (18) **general post-entry conditions** means that a person must:
- (a) comply with all of the **Directions currently in force**; and
  - (b) monitor for **SARS-CoV-2 symptoms**; and
  - (c) obtain a test for **SARS-CoV-2** as soon as possible after experiencing any **SARS-CoV-2 symptoms**;
- (19) **hospital** has the same meaning as in the **Hospital Visitor Directions**;
- (20) **Hospital Visitor Directions** means the **Hospital Visitor Directions (No 40)** as amended from time to time;
- (21) **international acceptable certification** means the person has a certificate issued 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:
- (i) the person's name as it appears on their passport; and
  - (ii) the person's date of birth or passport number; and
  - (iii) a certification from a 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 SARS-CoV-2); or
    - (C) a documented diagnosed SARS-CoV-2 infection confirmed by a **SARS-CoV-2 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 Directions in force in*

*Victoria, including the **COVID-19 Mandatory Vaccination (Specified Facilities) Directions**, **COVID-19 Mandatory Vaccination (General Workers) Directions**, **COVID-19 Mandatory Vaccination (Specified Workers) Directions** and the **Open Premises Directions**, unless they also meet the criteria at subclause (A) or (B).*

- (22) **international acceptable evidence** means information about a person's vaccination status:
- (a) 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
  - (b) 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:
    - (i) the person's name as it appears in their passport;
    - (ii) the person's date of birth or passport number;
    - (iii) the vaccine brand name, and
    - (iv) the date of each dose or the date on which a full course of immunisation was completed; or
  - (c) an Australian International COVID-19 Vaccination Certificate.
- (23) **international aircrew services worker** means an **aircrew services worker** who is arriving or departing Victoria on a flight to or from an international port;
- (24) **international passenger arrival** means a person who meets all of the requirements specified in clause 6(1);
- (25) **international passenger arrival conditions** means all of the conditions set out in clause 6(3);
- (26) **international passenger arrival permit** has the meaning in clause 6;
- (27) **medical contraindication** has the meaning in the **COVID-19 Mandatory Vaccination (Specified Facilities) Directions**;
- (28) **medical practitioner** has the meaning in the **COVID-19 Mandatory Vaccination (Specified Facilities) Directions**;
- (29) **medically exempt person** means a person who holds **international acceptable certification** from a **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 SARS-CoV-2).
- (30) **one dose COVID-19 vaccine** means the **COVID-19 vaccine** called 'COVID-19 Vaccine Janssen' (Jansen-Cilag);
- (31) **Open Premises Directions** means the **Open Premises Directions (No 7)** as amended from time to time;
- (32) **permit** means the written notice (digital or otherwise) provided under clause 7 and includes **international passenger arrival permit**;
- (33) **personal details means:**
  - (a) the person's full name; and
  - (b) the person's contact phone number; and
  - (c) 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, entering Victoria with the person; and
  - (d) the address from which the person is departing when entering Victoria; and
  - (e) where applicable, the current address where the person ordinarily resides; and
  - (f) 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.*
  - (g) the date of entry to Victoria; and
  - (h) if applicable, any planned date of departure from Victoria;
  - (i) the person's **vaccination status**;
- (34) **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;
- (35) **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**;
- (36) **SARS-CoV-2 PCR test** means a SARS-CoV-2 polymerase chain reaction test;
- (37) **SARS-CoV-2 rapid antigen test** means a SARS-CoV-2 rapid antigen test;
- (38) **SARS-CoV-2 symptoms** means symptoms consistent with **SARS-CoV-2**, including but not limited to the following:

- (a) a fever ( $\geq 37.5^{\circ}\text{C}$ ) or consistent fever of less than  $37.5^{\circ}\text{C}$  (such as night sweats, chills);
  - (b) acute respiratory infection (such as cough, shortness of breath, sore throat);
  - (c) loss of smell;
  - (d) loss of taste;
- (39) **school** means a registered school as defined in the **Education and Training Reform Act 2006**;
- (40) **Service Victoria CEO** has the same meaning as in the **Service Victoria Act 2018**;
- (41) **two dose COVID-19 vaccine** means any of the following **COVID-19 vaccines** called:
- (a) Vaxzevria (AstraZeneca);
  - (b) Comirnaty (Pfizer);
  - (c) Spikevax (Moderna);
  - (d) Coronvac (Sinovac);
  - (e) Covishield (Astrazeneca/Serum Institute of India);
  - (f) Covaxin (Bharat Biotech); or
  - (g) BBIP-CorV (Sinopharm);
- (42) **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**;
- (43) **Workplace Directions** means the **Workplace Directions (No 57)** as amended from time to time.

## 10 Penalties

- (1) Section 210 of the PHW Act provides:

### **False or misleading information**

- (1) A person must not—
- (a) give information that is false or misleading in a material particular; or
  - (b) make a statement that is false or misleading in a material particular; or
  - (c) produce a document that is false or misleading in a material particular—
- to the Secretary, a Council, the Chief Health Officer or an authorised officer under this Act or the regulations without indicating the respect in which it is false or misleading and, if practicable, providing correct information.

Penalty:            In the case of a natural person, 60 penalty units;  
                           In the case of a body corporate, 300 penalty units.

- (2) A person must not make an entry in a document required to be kept by this Act or the regulations that is false or misleading.

Penalty:            In the case of a natural person, 60 penalty units;  
                          In the case of a body corporate, 300 penalty units.

- (3) In a proceeding for an offence against subsection (1) or (2) it is a defence to the charge for the accused to prove that at the time at which the offence is alleged to have been committed, the accused believed on reasonable grounds that the information, statement or document was true or was not misleading.

- (2) 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.

- (3) A person who fails to comply with these directions is liable for an on-the-spot fine of:

- (a) in the case of a natural person:

- (i) aged 18 years or older – 10 penalty units  
(ii) aged 15 years or older but under the age of 18 years – 4 penalty units;  
(iii) aged under 15 years – 1 penalty unit; or

- (b) in the case of a body corporate – 60 penalty units; or

*Note: it is intended that subclauses (a) and (b) are a reference to Item 74 of Table 2 of Schedule 8 of the **Public Health and Wellbeing Regulations 2019**. Item 74 establishes the infringement offence constituted by refusing or failing 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 of the PHW Act.*

- (c) if the contravention of these directions is constituted by refusing or failing to comply with a requirement to self-isolate or self-quarantine:

- (i) in the case of a person aged 18 years or older – 30 penalty units;  
(ii) in the case of a child aged 15 years or older but under the age of 18 years – 5 penalty units;  
(iii) in the case of a child under the age of 15 years – 1 penalty unit;  
or



*Note: it is intended that subclause (c) is a reference to Item 76 of Table 2 of Schedule 8 of the **Public Health and Wellbeing Regulations 2019**. Item 76 establishes the infringement offence constituted by a contravention of directions given under section 200(1) of the PHW Act by refusing or failing to comply with a requirement to self-isolate or self-quarantine.*

- (d) if the contravention of these directions is constituted by refusing or failing to comply with a requirement in relation to a person travelling from a restricted area and seeking to enter Victoria without a reasonable excuse or other valid reason or excuse, in the case of a natural person:
- (i) aged 15 years or older but under the age of 18 years – 5 penalty units;
  - (ii) under the age of 15 years – 1 penalty unit;
  - (iii) in any other case – 30 penalty units.

*Note: it is intended that subclause (d) is a reference to Item 79 of Table 2 of Schedule 8 of the **Public Health and Wellbeing Regulations 2019**. Item 79 establishes the infringement offence constituted by a contravention of directions given under section 200(1) of the PHW Act by refusing or failing to comply with a requirement in relation to a person travelling from a restricted area (however described) and seeking to enter Victoria without a reasonable excuse or other valid reason or excuse. For the purposes of Item 79, any Country outside of Australia is a restricted area.*

- (4) Additionally, a person who fails to comply with these directions may in certain circumstances be liable to prosecution under the PHW Act for the maximum penalties outlined in subclause (2).



**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