

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

Workplace (Additional Industry Obligations) Directions (No 57)

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 presence of a person with a positive diagnosis of Novel Coronavirus 2019 (**SARS-CoV-2**) at a **Work Premises** is considered to pose an immediate risk of transmission to persons who attend, or may attend, the Work Premises.
- (2) The purpose of these directions is to establish additional specific obligations on **employers** and **workers** in specific industries in relation to managing the risk associated with SARS-CoV-2.
- (3) These directions must be read together with the **Directions currently in force**.
- (4) These directions are intended to supplement any obligations an employer may have under the **OHS Act** and the **Workplace Directions** and are not intended to derogate from any such obligations.
- (5) These directions replace the **Workplace (Additional Industry Obligations) Directions (No 56)**.

2 Citation

These directions may be referred to as the **Workplace (Additional Industry Obligations) Directions (No 57)**.

3 Revocation

The **Workplace (Additional Industry Obligations) Directions (No 56)** are revoked at 11:59:00pm on 18 November 2021.

4 Commencement

These directions commence at 11:59:00pm on 18 November 2021 and end at 11:59:00pm on 15 December 2021.

5 Application of directions to certain employers and roles

- (1) These directions apply to **Additional Obligation Industries**, namely:
 - (a) **poultry processing facilities;**
 - (b) **abattoirs and meat processing facilities;**
 - (c) **seafood processing facilities;**
 - (d) **supermarket Work Premises and perishable food Work Premises;**
 - (e) warehousing and distribution centres;
 - (f) **commercial cleaning services;**
 - (g) **care facilities;**
 - (h) **ports of entry** servicing international arrivals;
 - (i) **hotel quarantine;**
 - (j) **hospitals;**
 - (k) **construction sites.**
- (2) These directions apply to Additional Obligation Industries Work Premises that are located:
 - (a) in relation to supermarket Work Premises and perishable food Work Premises, and warehousing and distribution centres, in **Metropolitan Melbourne**; and
 - (b) in relation to all other Additional Obligation Industries not referred to in subclause (a), anywhere in Victoria, unless these directions indicate otherwise.

6 General Obligations

- (1) This clause 6 does not apply to the following Additional Obligation Industries:
 - (a) poultry processing facilities;
 - (b) abattoirs and meat processing facilities;
 - (c) seafood processing facilities;
 - (d) supermarket Work Premises and perishable food Work Premises;
 - (e) warehousing and distribution centres;
 - (f) ports of entry servicing international arrivals;
 - (g) commercial cleaning services;
 - (h) care facilities;
 - (i) hospitals (except for **high-risk hospital Work Premises**, to which the clause does apply);
 - (j) construction sites.

Note: the exception of care facilities and hospitals (except for high-risk hospital Work Premises) as being exempt from the requirements in clause 6 does not

exempt care facilities from satisfying equivalent requirements imposed under other regulatory arrangements.

Compliance

- (2) An **Authorised Officer** or **inspector** (or their nominated representative) may conduct:
- (a) an inspection of a Work Premises; or
 - (b) an inspection or audit of the records of an employer, to assess an employer's compliance with these directions.

Consultation

- (3) An employer in relation to an Additional Obligation Industry Work Premises must, to the extent **reasonably practicable**, consult with health and safety representatives, together with workers who are, or are likely to be, directly affected:
- (a) to identify or assess risks to health or safety at a workplace; and
 - (b) to make decisions about the measures to be taken to control risks to health and safety; and
 - (c) to determine if any risk identified under subclause (a) is either under the employer's management and control or arises from the employer's conduct; and
 - (d) to make decisions about the adequacy of facilities for the welfare of workers; and
 - (e) in making decisions about procedures to resolve health and safety issues, including (but not limited to):
 - (i) procedures around health and safety consultation itself;
 - (ii) procedures to monitor the health of workers and the conditions of the workplace;
 - (iii) procedures to provide information and training to workers; and
 - (f) by a change to:
 - (i) a workplace; or
 - (ii) the plant, substances, or other things used at a workplace; or
 - (iii) the conduct of work performed at a workplace.

7 Additional Industry Obligations

- (1) An employer in relation to an Additional Obligation Industry Work Premises must:
- (a) increase the regularity of comprehensive cleaning by ensuring all areas where workers are working are **cleaned** at least daily (except for meat, poultry and seafood processing, care facilities, hospitals, commercial cleaning services, ports of entry, warehousing and

distribution centres, supermarket Work Premises and perishable food Work Premises, and construction sites); and

Note: the exception of meat, poultry and seafood processing, care facilities, hospitals, commercial cleaning services, ports of entry, warehousing and distribution centres, supermarket Work Premises and perishable food Work Premises, and construction sites from the requirements in subclause (a) does not exempt meat, poultry and seafood processing, care facilities, hospitals, ports of entry, warehousing and distribution centres, supermarket Work Premises and perishable food Work Premises, and construction sites from satisfying equivalent requirements imposed under other regulatory arrangements.

- (b) where the employer's Work Premises is an industry that is listed in the **Surveillance Testing Industry List and Requirements** (as amended from time to time on the advice of the Chief Health Officer):
- (i) carry out surveillance testing for SARS-CoV-2 on its workers in relation to the Work Premises in accordance with the requirements of the Surveillance Testing Industry List and Requirements (as amended from time to time on the advice of the Chief Health Officer), including:
 - (A) those sections of its workforce required to be tested under the Surveillance Testing Industry List and Requirements;
 - (B) a weekly surveillance testing target of the percentage of workers that are to be tested; and
 - (ii) for industries that require workers to undergo a **SARS-CoV-2 rapid antigen test**, if a worker receives an invalid test result from the SARS-CoV-2 rapid antigen test, the employer must direct the worker to undertake a second SARS-CoV-2 rapid antigen test as soon as possible; and
 - (iii) for industries that require workers to undergo a SARS-CoV-2 rapid antigen test, if a worker receives:
 - (A) a positive test result from the SARS-CoV-2 rapid antigen test; or
 - (B) two successive invalid SARS-CoV-2 rapid antigen test results,the employer must direct the worker to:
 - (C) undertake a **SARS-CoV-2 PCR test** as soon as possible; and
 - (D) self-isolate until a negative SARS-CoV-2 PCR test result is received; and
 - (iv) keep records of surveillance testing of workers for SARS-CoV-2, which demonstrate that the employer has complied with its obligations under subclause (i) in relation to the Work Premises; and

- (v) provide the records required to be kept by the employer under subclause (iv) to the **Department** upon request by the Department for those records.

Note: the industries and requirements included in the Surveillance Testing Industry List and Requirements may be amended on the advice of the Chief Health Officer.

- (2) An employer is not required to carry out surveillance testing for SARS-CoV-2 pursuant to subclause (1)(b)(i) in relation to a worker who is a **confirmed case** for period of 90 days commencing from the date the diagnosis of SARS-CoV-2 is confirmed through a **SARS-CoV-2 PCR test**.

Additional measures to prevent COVID in abattoirs and meat processing facilities, poultry processing facilities and seafood processing facilities

- (3) In relation to a Work Premises that is an abattoir, meat processing facility, poultry processing facility or seafood processing facility, an employer must ensure that all workers at the Work Premises wear the appropriate level of **personal protective equipment**:
 - (a) to carry out the functions of the worker's role; and
 - (b) to mitigate the introduction of SARS-CoV-2 at the Work Premises including (but not limited to) at a minimum, wearing a surgical face mask, unless it is not reasonably practicable to wear a surgical face mask in the Work Premises or the nature of a worker's work means that it creates a risk to their health and safety.

*Note 1: an employer at a Work Premises that is an abattoir, meat processing facility, poultry processing facility or seafood processing facility is required to comply with subclause (b) unless an exception under the **Stay Safe Directions (Victoria)** applies in respect of a worker, in which case the employer is exempted from requiring that worker to wear a **face covering**.*

*Note 2: the exception from the requirement to wear a face covering pursuant to clause 5(3)(i) of the **Stay Safe Directions (Victoria)** does not apply to a worker at a Work Premises that is an abattoir, meat processing facility, poultry processing facility or seafood processing facility whilst working at the Work Premises in Victoria.*

Care facilities

- (4) An employer in relation to a Work Premises that is a care facility in Victoria must require care facility workers in relation to a care facility to wear a **face covering** while working:
 - (a) in any indoor space at the care facility; or
 - (b) in any resident-facing role at the care facility,

unless an exception under the **Stay Safe Directions (Victoria)** applies in respect of a care facility worker in relation to a care facility, then the employer is exempted from requiring that care facility worker to wear a face covering.

Example: where a care facility worker is communicating with a resident who is hard of hearing or deaf and visibility of the mouth is essential for communication,

that care facility worker may remove their face covering whilst communicating with the resident.

*Note: the exception from the requirement to wear a face covering pursuant to clause 5(3)(i) of the **Stay Safe Directions (Victoria)** does not apply to a worker at a Work Premises that is a care facility in Victoria.*

- (5) If a care facility worker is working at more than one Work Premises for two or more different employers:
- (a) the care facility worker must provide a written declaration to each employer to advise them that the worker is working at more than one Work Premises and must provide details of the other Work Premises to each employer; and
 - (b) each employer must maintain a record of all care facility workers who have disclosed to the employer under subclause (a) that they are working across more than one Work Premises.
- (6) Despite the **Care Facilities Directions**, an employer in relation to a Work Premises that is a care facility in Victoria must not permit an employee or contractor (excluding a **visiting health care professional**) to enter the care facility where:
- (a) the employee or contractor has, on or after 4 October 2020, worked at another care facility; and
 - (b) at the time the employee or contractor worked at that other care facility, a confirmed case was present at that other facility,
- unless:
- (c) if the employee or contractor is **fully vaccinated**:
 - (i) at least 7 days have elapsed since the last time the employee or contractor worked at that other facility while a confirmed case was present; and
 - (ii) the employee or contractor:
 - (A) has undertaken a test for SARS-CoV-2 on or after 6 days from the day that the employee or contractor last worked at that other facility while a confirmed case was present; and
 - (B) received confirmation that the results of the test undertaken pursuant to subclause (A) were negative; or
 - (d) if the employee or contractor is not fully vaccinated:
 - (i) at least 14 days have elapsed since the last time the employee or contractor worked at that other facility while a confirmed case was present; and
 - (ii) the employee or contractor:
 - (A) has undertaken a test for SARS-CoV-2 on or after 13 days from the day that the employee or contractor last worked

at that other facility while a confirmed case was present;
and

- (B) received confirmation that the results of the test undertaken pursuant to subclause (A) were negative; and
- (e) the employee or contractor has provided evidence of the negative test result pursuant to subclause (c) or (d) to the employer prior to commencing work at that care facility.

Note 1: providing the employer with hardcopy or electronic notification confirming the negative test result from a testing provider is sufficient evidence.

*Note 2: the effect of subclause (6) is that, in the event of an **outbreak** of SARS-CoV-2 at a care facility, an employee or contractor present during the outbreak must only work at that facility, and cannot be permitted to work at other care facilities. Such employees or contractors must wait a minimum period of either 7 days if they are fully vaccinated or 14 days if they are not fully vaccinated from when they last worked a shift while a confirmed case was present at the facility and test negative for SARS-CoV-2, before moving from that care facility to commence work at another care facility. No test is required if it has been 28 days or more since the employee or contractor last worked a shift while a confirmed case was present at the facility.*

- (7) For the avoidance of any doubt, the obligations on an employer in subclause (6) do not apply to a **visiting health care professional** entering the care facility.
- (8) An employer in relation to a Work Premises that is a care facility in Victoria must comply with personal protective equipment requirements in accordance with the requirements of the Department.
- (9) The Chief Health Officer may grant an exemption in writing to the requirements of subclause (6).

Note: an exemption may only be granted where it is necessary to ensure that residents are provided with a reasonable standard of care.

Ports of entry

- (10) Subject to subclause (11), a **port of entry worker** means:
 - (a) any **airport** or maritime **port** worker who has direct contact (including occasional contact or interactions) with international passengers or crew, at the international **port of entry**; or
 - (b) a worker or person who interacts with the environment within the international port of entry (including any worker or person who boards a vessel, ship or **aircraft**) where international passengers and crew are or have been.

Note: interacting with the "environment" within the international port of entry refers to handling items and/or using or being in communal facilities (such as toilets, waiting areas and seating) that have been used by or are being used by international passengers and crew. It also refers to boarding or entering a vessel, ship or aircraft where international passengers and

crew are or have been.

- (11) Despite subclause (10), a port of entry worker does not include any worker who works in an international departures area of an airport.
- (12) In relation to a Work Premises that is a port of entry Work Premises servicing international arrivals, an employer must:

Note: a Work Premises which is a port of entry servicing international arrivals is a port or airport at which port of entry workers provide services in relation to, or encounter, passengers, crew members, shipping vessels or aircraft arriving in Victoria from outside of Australia, subject to the definition of "port of entry workers" above.

- (a) make available an adequate supply of personal protective equipment free of charge to port of entry workers; and
- (b) ensure that all port of entry workers wear **appropriate personal protective equipment** in accordance with the requirements of the Department; and
- (c) if they are an employer of an international aircrew service worker, keep, and provide to the Department upon request by the Department, records of:
 - (i) the date and time each SARS-CoV-2 rapid antigen test is administered to an international aircrew service worker; and
 - (ii) the result of each SARS-CoV-2 rapid antigen test administered to an international aircrew service worker; and
 - (iii) in the event that the result of the SARS-CoV-2 rapid antigen test is positive for an international aircrew service worker, the date, time and result of a polymerase chain reaction test undertaken on that worker.

Hotel quarantine

- (13) In relation to a Work Premises that is a hotel quarantine Work Premises, an employer must:
 - (a) make available an adequate supply of personal protective equipment free of charge to workers; and
 - (b) ensure that all workers wear appropriate personal protective equipment in accordance with the requirements of the Department; and
 - (c) provide regular training to workers (including, but not limited to, an induction for all workers commencing at, or returning to, the Work Premises) that covers:
 - (i) good hygiene practices; and
 - (ii) advising workers not to attend the Work Premises when unwell.

Hospitals

- (14) In relation to those parts of a hospital that are a high-risk hospital Work Premises, an employer must:

- (a) arrange operations at the Work Premises so as to have high-risk hospital Work Premises workers working consistently with the same group of other high-risk hospital Work Premises workers where reasonably practicable, including (but not limited to):
 - (i) developing separate shifts in a way that minimises physical interactions between groups of high-risk hospital Work Premises workers attending different shifts;
 - (ii) separating high-risk hospital Work Premises workers into work areas;
 - (iii) dividing work areas up further into separate teams;
 - (iv) providing separate break areas for the separate teams;
 - (v) requiring teams to use separate entrances and exits from other teams;
 - (vi) where high-risk hospital Work Premises workers are from the same household, ensuring they work in the same shift and work area.
- (15) Subject to subclause (16), an employer in relation to a high-risk hospital Work Premises must not require or permit a high-risk hospital Work Premises worker to perform work at more than one Work Premises of the employer.
- (16) Subclause (15) does not apply where it is not practicable to limit a high-risk hospital Work Premises worker to only one Work Premises.
- (17) Where subclause (16) applies, the employer must be able to demonstrate the systems of work which it has put in place to minimise the number of high-risk hospital Work Premises workers working across multiple Work Premises.

Example: rosters.
- (18) If a high-risk hospital Work Premises worker working in a high-risk hospital Work Premises is working at more than one Work Premises for two or more different employers:
 - (a) the high-risk hospital Work Premises worker must provide a written declaration to each employer to advise them that the high-risk hospital Work Premises worker is working at more than one Work Premises and must provide details of the other Work Premises to each employer; and
 - (b) each employer must maintain a record of all high-risk hospital Work Premises workers who have disclosed to the employer under subclause (a) that they are working across more than one Work Premises.
- (19) In relation to a Work Premises that is a hospital, an employer must require workers to declare in writing at the start of each shift:

- (a) whether the worker has completed a shift or shifts at another hospital in a high-risk hospital Work Premises in the 14 days prior to making the declaration; and
- (b) if the worker declares that they have completed a shift or shifts at another hospital in a high-risk hospital Work Premises in the 14 days prior to making the declaration:
 - (i) the name of the relevant hospital; and
 - (ii) whether a shift, or any shifts, declared under subclause (a) were on the roster of a **COVID streaming area**.

Note: a shift on the roster of a COVID streaming area includes a shift where the worker is primarily assigned to caring for COVID positive patients in a negative pressure room (for example, a nurse allocated to care for COVID positive patients in a negative pressure room). A shift on the roster of a COVID streaming area also includes staff who were rostered on to work and worked in the COVID streaming area and staff who were not originally rostered but worked in the area to cover a gap in the roster.

(20) In relation to:

- (a) unless subclause (b) applies, a Work Premises identified in Column 1 of Schedule 1, an employer must comply with the restrictions and requirements outlined in Column 2 of Schedule 1; and
- (b) a Work Premises identified in Column 1 of Schedule 2, an employer must comply with the restrictions and requirements outlined in Column 2 of Schedule 2 from the date specified in Column 3 of Schedule 2,

except in relation to:

- (c) an in vitro fertilisation (**IVF**) procedure performed at a Work Premises that is:
 - (i) a registered facility; or
 - (ii) at a **theatre complex** within a public hospital only if:
 - (A) the employer has reduced the volume of IVF procedures performed per week by at least 50 per cent compared to the usual volume of allocated list time for IVF procedures prior to the introduction of any restrictions on IVF procedures under a revoked **Workplace (Additional Industry Obligations) Directions** or Restricted Activity Directions; or
 - (B) the IVF procedure is for the preservation of eggs for a future IVF procedure that is required due to health treatment that a patient will be receiving which will render their eggs non-viable; or
- (d) a procedure for the surgical termination of pregnancy.

8 Relationship with other directions

- (1) If there is any inconsistency between these directions and a direction or other requirement contained in a **Detention Notice**, these directions are inoperative to the extent of the inconsistency.
- (2) If there is any inconsistency between these directions and a direction or other requirement contained in the **Workplace Directions**, the **Workplace Directions** are inoperative to the extent of the inconsistency.

9 Other definitions

For the purposes of these directions:

- (1) **abattoir** has the meaning under the PrimeSafe licence categories “abattoirs (domestic)” and “abattoirs (exports)”;
- (2) **Additional Obligation Industries** has the meaning in clause 5(1);
- (3) **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;
- (4) **airport** means a facility that receives scheduled international passenger air transport services and / or passenger charter air services from international markets;
- (5) **Authorised Officer** has the same meaning as in the **PHW Act**;
- (6) **Border Directions** means the **Victorian Border Crossing Permit Directions (No 39)** as amended or replaced from time to time;
- (7) **Care Facilities Directions** means the **Care Facilities Directions (No 50)** as amended or replaced from time to time;
- (8) **care facility** has the same meaning as in the **Care Facilities Directions**;
- (9) **care facility worker** has the same meaning as “worker” in the **Care Facilities Directions**;
- (10) **Category 1 elective surgery procedure** means a procedure that is clinically indicated within 30 days and where the **patient's** condition has the potential to deteriorate quickly to the point where the patient's condition may become an emergency;
- (11) **Category 2A elective surgery procedure** means a procedure that is clinically indicated within 90 days and where the **patient's** condition may deteriorate quickly and may become an emergency if not admitted within an appropriate time;
- (12) **Category 2B elective surgery procedure** means a procedure that is clinically indicated within 90 days and where the **patient's** condition is unlikely to deteriorate quickly or become an emergency during that period;
- (13) **Category 3 elective surgery procedure** means a procedure that is clinically indicated within 365 days but is unlikely to deteriorate quickly;
- (14) **cleaned** has the same meaning as in the **Workplace Directions**;

- (15) **confirmed case** means a **worker** or person diagnosed with **SARS-CoV-2** and includes the period of time prior to the diagnosis during which the worker is considered infectious;

*Note: the period during which a person is considered infectious is generally considered to be 48 hours prior to the onset of **SARS-CoV-2 Symptoms**, however, alternative infectious periods may be determined at the discretion of an officer or nominated representative of the **Department** (for instance, in high-risk settings or if the **confirmed case** is asymptomatic).*

- (16) **construction site** means a Work Premises at which civil works, building or construction activities take place;
- (17) **COVID streaming area** means any patient treatment area nominated by the relevant health service as an area dedicated to treating a confirmed case or confirmed cases, including negative pressure rooms for SARS-CoV-2 patients;
- (18) **day procedure centre** has the same meaning as in the **Hospital Visitor Directions**;
- (19) **density quotient** has the same meaning as in the **Workplace Directions**;
- (20) **Department** means the Department of Health;
- (21) **Detention Notice** means a notice given to a person requiring the person to be detained for a specified period;
- (22) **Directions currently in force** has the same meaning as in the **Workplace Directions**;
- (23) **early stage land development sites** means all civil works undertaken on open air, large greenfield sites that are associated with and preparatory to construction of multiple individual residential dwellings or industrial or commercial development on that site (including site remediation and site preparation works, construction of utilities and construction of roads, bridges, stormwater/flood management works and trunk infrastructure);
- (24) **elective surgery procedure** means an **urgent elective surgery procedure, urgent non-ESIS procedures, Category 1 elective surgery procedure, Category 2A elective surgery procedure, Category 2B elective surgery procedure, Category 3 elective surgery procedure** or **non-urgent non-ESIS procedure**;
- (25) **employee** includes a person who is self-employed;
- (26) **employer** means a person who owns, operates or controls a **Work Premises** and includes a person who is self-employed or a sole-trader;
- (27) **face covering** has the same meaning as in the **Workplace Directions**;
- (28) **fully vaccinated** has the same meaning as in the **Open Premises Directions**;
- (29) **high-risk hospital Work Premises** means any **hospital** ward treating a **confirmed case** or cases of **SARS-CoV-2**;

- (30) **high-risk hospital Work Premises worker** means any **worker** involved in the direct care of patients, and those who interact with a **high-risk hospital Work Premises**;
- (31) **hospital** has the same meaning as in the **Hospital Visitor Directions**;
- (32) **Hospital Visitor Directions** means the **Hospital Visitor Directions (No 40)** as amended or replaced from time to time;
- (33) **hotel quarantine** means a place (being a hotel or other facility or class of facility), designated by the Attorney-General and published in the Government Gazette, where people are detained in or directed to remain in, or are staying in, quarantine, isolation or emergency accommodation at, for the purpose of eliminating or reducing the serious risk to public health posed by the COVID-19 pandemic;
- (34) **inspector** has the same meaning as in the **OHS Act**;
- (35) **meat processing facility** has the meaning under the PrimeSafe licence category “further meat processing facilities”;
- (36) **Metropolitan Melbourne** means the area within the municipal districts under the local government of the municipal councils set out in Schedule 2 of the **Planning and Environment Act 1987**;
- (37) **non-urgent non-ESIS procedure** means a non-time critical procedure that is not reported via the Elective Surgery Information System where the **patient’s** condition is unlikely to deteriorate quickly;
- (38) **OHS Act** means the **Occupational Health and Safety Act 2004**;
- (39) **Open Premises Directions** means the **Open Premises Directions (No 5)** as amended or replaced from time to time;
- (40) **outbreak** means:
- (a) a single **confirmed case of SARS-CoV-2** in a resident, staff member or frequent attendee of a residential aged **care facility**; or
 - (b) two or more epidemiologically linked cases outside of a household with symptom onset within 14 days;
- Note: transmission within one household does not constitute an outbreak but will become part of an outbreak response if linked to a high priority setting. In some circumstances, the **Department** may identify other settings that are sensitive and where a single confirmed case will trigger an outbreak response. Relevant parties will be informed if this occurs. Determining whether a person is a frequent or infrequent visitor may be based on frequency of visits, time spent in the setting, and number of contacts within the setting.*
- (41) **patient** has the same meaning as in the **Hospital Visitor Directions**;
- (42) **perishable food Work Premises** means a **Work Premises** that is predominantly a perishable food facility that is a chilled distribution facility;
- (43) **personal protective equipment** has the same meaning as in the **Occupational Health and Safety Regulations 2017**;

- (44) **PHW Act** means the **Public Health and Wellbeing Act 2008**;
- (45) **port** means the port of Melbourne, the port of Geelong, the port of Portland, the port of Hastings and any other port declared under section 6 of the **Port Management Act 1995** in relation to which port lands or port waters or both port lands and port waters have been declared under section 5 of the **Port Management Act 1995**;
- (46) **port of entry** means a **port** or **airport**;
- (47) **port of entry worker** has the meaning in clause 7(10);
- (48) **poultry processing facility** has the meaning under the PrimeSafe licence category “poultry meat processing facilities”;
- (49) **premises** has the same meaning as in the **PHW Act**;
- (50) **private hospital** has the same meaning as in the **Hospital Visitor Directions**;
- (51) **public hospital** has the same meaning as in the **Hospital Visitor Directions**;
- (52) **reasonably practicable** is to have its ordinary and common sense meaning;
- (53) **Regional Victoria** means the areas within the State of Victoria that are not part of Metropolitan Melbourne;
- (54) **registered facility** means a **private hospital** or a **day procedure centre** that is registered with the Department as a "private hospital" or a "day procedure centre”;
- (55) **representative** in relation to the **operator** of a construction site means the site manager, the duty holder or a registered builder;
- (56) **revoked Workplace (Additional Industry Obligations) Direction** means any of the previous **Workplace (Additional Industry Obligations) Directions** which are no longer in force;
- (57) **SARS-CoV-2 Symptoms** has the same meaning as in the **Workplace Directions**;
- (58) **seafood processing facility** has the meaning under the PrimeSafe licence category “seafood processing facilities”;
- (59) **SARS-CoV-2 PCR test** means a SARS-CoV-2 polymerase chain reaction test;
- (60) **SARS-CoV-2 rapid antigen test** means a SARS-CoV-2 rapid antigen test;
- (61) **Stay Safe Directions (Victoria)** means the **Stay Safe Directions (Victoria) (No 29)** as amended or replaced from time to time;
- (62) **supermarket** has the same meaning as “supermarket business” in the **Food Act 1984**, and includes supermarket distribution and warehousing (including in relation to liquor products) but excludes retail facilities;
- (63) **supermarket Work Premises** means the total of all **supermarket** distribution facilities;

- (64) **Surveillance Testing Industry List and Requirements** means the **Department** document that lists the industries (as amended from time to time on the advice of the Chief Health Officer) that are required to carry out surveillance testing on their **workers**, and also sets out the surveillance testing requirements for those listed industries;

Note: the Surveillance Testing Industry List and Requirements are available at www.dhhs.vic.gov.au/surveillance-testing-industry-list-covid-19 as amended from time to time by the Victorian Government.

- (65) **theatre complex** means the suite of rooms at a hospital where medical procedures are performed and ancillary services are conducted;
- (66) **urgent elective surgery procedure** means a procedure where admission within 30 days is clinically indicated for a condition that has the potential to deteriorate quickly to the point that it might become an emergency; a procedure that is clinically indicated within 90 days and where the patient's condition may deteriorate quickly and become an emergency if not admitted within an appropriate time; an **urgent non-ESIS procedure** including a procedure undertaken for the purposes of cancer diagnosis and early or overdue cancer surveillance and includes a **Category 1 elective surgery procedure**, a **Category 2A elective surgery procedure** and a **urgent non-ESIS procedure**;
- (67) **urgent non-ESIS procedure** means a procedure that is a time critical procedure that is not reported via the Elective Surgery Information System where the **patient's** condition is likely to deteriorate quickly including procedures undertaken for the purposes of cancer diagnosis and early or overdue cancer surveillance;
- (68) **vehicle** has the same meaning as in the **PHW Act**;

*Note: under the **PHW Act**, vehicle includes any means of transport, whether used on land, sea or in the air.*

- (69) **visiting health care professional** means a health care worker whose usual place of work is not the facility but who attends to provide health care services to a resident or facility;
- (70) **Workplace Directions** means the **Workplace Directions (No 56)** as amended or replaced from time to time;
- (71) **Work Premises** means the **premises** of an **employer** in which work is undertaken, including any **vehicle** whilst being used for work purposes, and including a **seasonal Work Premises**;

*Note: a Work Premises does not include an **employee's** ordinary place of residence.*

- (72) **worker** includes **employees**, labour hire, subcontractors (and their employees), volunteers and any other person engaged or permitted by an **employer** to perform work.

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.

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.

- (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.

18 November 2021

SCHEDULE 1 – CURRENT RESTRICTIONS ON ELECTIVE SURGERY

Work Premises (Column 1)	Current elective surgery restrictions (Column 2)
<p>Private hospitals in Metropolitan Melbourne and in the local government area of the City of Greater Geelong</p> <p>Day procedure centres in Metropolitan Melbourne</p>	<ul style="list-style-type: none"> (a) An employer may only permit an elective surgery procedure to be performed that is an urgent elective surgery procedure. (b) An employer must ensure that all elective surgery procedures that are not urgent elective surgery procedures are temporarily postponed. (c) An employer must not permit cosmetic surgery or other procedures not addressing significant medical conditions that do not have an MBS item to be performed. (d) The restrictions in paragraphs (a) to (b) do not apply to the following services completed by private hospitals and day procedure centres: <ul style="list-style-type: none"> (i) all activity undertaken on behalf of a public health service or public hospital; and (ii) emergency surgery. (e) An employer must not accept referrals from public health services of public patients waiting for surgery that are not urgent elective surgery procedures, including Category 2B and Category 3 elective surgery procedures.

<p>Private hospitals in the local government areas of the City of Ballarat, the City of Greater Shepparton, the City of Greater Bendigo and the City of Latrobe</p>	<ul style="list-style-type: none"> (a) An employer may only permit elective surgery procedures to be performed if the employer: <ul style="list-style-type: none"> (i) provides a report to the Department on a fortnightly basis that specifies the volume of elective surgery procedures it is performing and how requests for support from public health services to assist with the COVID-19 response have been fulfilled; and (ii) does not exceed the volume cap on elective surgery procedures in paragraph (b). (b) An employer must ensure that the volume of elective surgery procedures performed per week is less than 50 per cent of the usual volume of allocated list time prior to the introduction of restrictions on elective surgery procedures under a revoked Workplace (Additional Industry Obligations) Directions or Restricted Activity Directions. (c) An employer must ensure patients requiring elective surgery procedures are prioritised based on clinical need. An employer must accommodate urgent elective surgery patients within the 50 per cent cap specified in paragraph (b). (d) An employer must not permit cosmetic surgery or other procedures not addressing significant medical conditions that do not have an MBS item to be performed. (e) The following services completed by private hospitals do not count towards the 50 per cent cap in place at each registered facility in accordance with paragraph (b): <ul style="list-style-type: none"> (i) all activity undertaken on behalf of public health services or public hospitals; and (ii) emergency surgery. (f) An employer must not accept referrals from public health services of public patients waiting for procedures that are not urgent elective surgery procedures, including Category 2B and Category 3 elective surgery procedures if the employer is not performing non-urgent elective surgery procedures on private patients.
<p>All public health services located in Metropolitan Melbourne and all public health services that are part of Barwon Health</p>	<ul style="list-style-type: none"> (a) An employer may only permit an elective surgery procedure to be performed that is an urgent elective surgery procedure. (b) An employer must ensure all elective surgery procedures that are not urgent elective surgery procedures, including Category 2B elective surgery procedures and Category 3 elective surgery procedures and non-urgent non-ESIS procedures, are temporarily postponed. (c) An employer must not refer public patients to a private hospital who are waiting for procedures that are not
<p>All public health services that are part of the Ballarat Health Service campus of Grampians Health or part of Goulburn Valley Health</p>	

<p>All public health services that are part of Bendigo Health and the Latrobe Regional Hospital</p>	<p>urgent elective surgery procedures, including Category 2B and Category 3 elective surgery procedures unless that registered facility is performing non-urgent elective surgery procedures on private patients.</p>
<p>All public health services and public hospitals in Regional Victoria that do not operate a COVID-19 streaming area</p>	<p>(a) If an employer intends to reduce the volume of its allocated elective surgery procedure list, the employer must notify the Department prior to postponing any elective surgery procedures.</p>

SCHEDULE 2 – FUTURE RESTRICTIONS ON ELECTIVE SURGERY

Work Premises (Column 1)	Future elective surgery restrictions (Column 2)	Commencement date (Column 3)
<p>Private hospitals in Metropolitan Melbourne and in the local government area of the City of Greater Geelong</p> <p>Day procedure centres in Metropolitan Melbourne</p>	<p>(a) An employer may only permit elective surgery procedures to be performed if the employer:</p> <ul style="list-style-type: none"> (i) provides a report to the Department on a fortnightly basis that specifies the volume of elective surgery procedures it is performing and how requests for support from public health services to assist with the COVID-19 response have been fulfilled; and (ii) does not exceed the volume cap on elective surgery procedures in paragraph (b). <p>(b) An employer must ensure that the volume of elective surgery procedures performed per week is less than 50 per cent of the usual volume of allocated list time prior to the introduction of restrictions on elective surgery procedures under a revoked Workplace (Additional Industry Obligations) Directions or Restricted Activity Directions.</p> <p>(c) An employer must ensure patients requiring elective surgery procedures are prioritised based on clinical need. An employer must accommodate urgent elective surgery patients within the 50 per cent cap specified in paragraph (b).</p> <p>(d) An employer must not permit cosmetic surgery or other procedures not addressing significant medical conditions that do not have an MBS item to be performed.</p> <p>(e) The following services completed by private hospitals do not count towards the 50 per cent cap in place at each registered facility in accordance with paragraph (b):</p> <ul style="list-style-type: none"> (i) all activity undertaken on behalf of public health services or public hospitals; and (ii) emergency surgery. <p>(f) An employer must not accept referrals from public health services of public patients waiting for surgery that are not urgent elective surgery procedures, including Category 2B and Category 3 elective surgery procedures if the employer is not performing non-urgent elective surgery procedures on private patients.</p>	<p>15 November 2021</p>

<p>All public health services located in Metropolitan Melbourne that do not operate a COVID-19 streaming area</p>	<p>(a) An employer must ensure that the volume of elective surgery procedures performed per week is less than 50 per cent of the usual volume of allocated list time prior to the introduction of restrictions on elective surgery procedures under a revoked Workplace (Additional Industry Obligations) Directions or Restricted Activity Directions.</p> <p>(b) An employer must ensure patients requiring elective surgery procedures are prioritised based on clinical need. An employer must accommodate urgent elective surgery patients within the 50 per cent cap specified in paragraph (a).</p>	<p>15 November 2021</p>
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