

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

## Workplace 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 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 severe acute respiratory syndrome coronavirus 2 (**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 limit the number of Victorians attending Work Premises to assist in reducing the frequency and scale of **outbreaks** of SARS-CoV-2 in Victorian workplaces and to establish more specific obligations on **employers** and **workers** 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 obligation an employer may have under the **OHS Act** and are not intended to derogate from any such obligations.
- (5) These directions replace the **Workplace Directions (No 56)**.

### 2 Citation

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

### 3 Revocation

The **Workplace Directions (No 56)** are revoked at 6:00:00pm on 25 November 2021.

### 4 Commencement

These directions commence at 6:00:00pm on 25 November 2021 and end at 11:59:00pm on 15 December 2021.

## 5 Operation of a Work Premises

- (1) Where an employer permits or requires work to be performed at a Work Premises, the employer must comply with clauses 6 to 8.
- (2) A worker must not attend a Work Premises if:
  - (a) they have been tested for SARS-CoV-2 because they are symptomatic; and
  - (b) they are awaiting the result of that test.

## 6 Preventative measures at Work Premises to reduce the risk of SARS-CoV-2

### *Face coverings requirement*

- (1) An employer must take reasonable steps to ensure a worker, when working at a Work Premises:
  - (a) carries a **face covering** at all times, except where the exception in clause 5 of the **Stay Safe Directions (Victoria)** applies; and
  - (b) wears a face covering where required to do so in accordance with any other Directions currently in force, except where an exception in clause 5 of the **Stay Safe Directions (Victoria)** applies.

*Note: face shields on their own do not meet the face covering requirements. Please refer to the **Department's** guidelines for further information.*

- (1A) An employer of an **education premises** must take all reasonable steps to ensure that each student who physically attends the education premises complies with any requirement to wear a face covering that may apply to the student under the **Stay Safe Directions (Victoria)**.

### *COVIDSafe Plan*

- (2) Subject to subclause (4), an employer must, for each Work Premises:
  - (a) have in place a COVIDSafe Plan, which addresses the health and safety issues arising from SARS-CoV-2, including but not limited to:

*Note: employers can use the template plan accessible from the following website for guidance: [www.coronavirus.vic.gov.au/covidsafe-plan](http://www.coronavirus.vic.gov.au/covidsafe-plan), as amended or replaced from time to time by the Victorian Government.*

- (i) the employer's process for implementing the record-keeping obligation under subclause (6);
- (ii) the appropriate level of **PPE** to be worn at the Work Premises;
- (iii) actions taken by the employer to mitigate the introduction of SARS-CoV-2 at the Work Premises;

*Examples: temperature testing, provision and training for PPE use, regular cleaning, specific **cleaning requirements** following an outbreak, physical distancing requirements (e.g. closing or reconfiguring **common areas** such as lunchrooms to support workers remaining 1.5 metres apart at all times).*

- (iv) the processes which the employer has put in place to respond to any **suspected case** or any **confirmed case** of SARS-CoV-2 at the Work Premises, taking into account the employer's obligations under these directions;
- (v) an acknowledgement that the employer understands its responsibilities and obligations under these directions; and
- (b) document and evidence, and require its managers to document and evidence, implementation of the COVIDSafe Plan.
- (3) The employer and the employer's workers must comply with the COVIDSafe Plan.
- (4) An employer is not required to comply with subclause (2):
  - (a) for any Work Premises that have no workers working at that Work Premises; or
  - (b) in relation to:
    - (i) each individual **vehicle** that makes up a fleet of two or more vehicles; and
 

*Note 1: despite subclause (i), an employer must have a COVIDSafe Plan in relation to a fleet of two or more vehicles.*

*Note 2: where an employer owns, operates or controls only one vehicle, then it must have a COVIDSafe Plan for that vehicle.*

*Example: where an employer owns, operates or controls only one vehicle used to provide **commercial passenger vehicle services** or a vehicle used to provide **passenger services**, then it must have a COVIDSafe Plan for that vehicle.*
    - (ii) vehicles used predominantly by a worker to travel between the Work Premises and the worker's ordinary place of residence; or
 

*Note: each vehicle used predominantly as a Work Premises (e.g. food trucks, dental vans) requires a COVIDSafe Plan.*
  - (c) in relation to a premises governed by an **owners corporation** where that premises has:
    - (i) no shared spaces; or
    - (ii) only shared **outdoor spaces** (such as shared driveways, lawns or gardens).
 

*Note: an owners corporation is required to have a COVIDSafe Plan for all premises where there are shared **indoor spaces** (for example: hallways, underground carparking facilities, or gyms).*
- (5) An employer must:
  - (a) comply with any direction given by an **Authorised Officer** or **WorkSafe inspector** to modify a COVIDSafe Plan, including:

- (i) following an outbreak of confirmed cases of SARS-CoV-2 at a Work Premises; or
  - (ii) if the Authorised Officer considers that the COVIDSafe Plan is not fit for purpose; and
- (b) implement any modifications required in accordance with subclause (5)(a).

*Record-keeping obligations (records requirement)*

- (6) Subject to subclause (10), an employer must keep a record of all persons who attend the Work Premises, which includes:
- (a) the person's first name; and
  - (b) the person's surname; and
  - (c) a contact phone number; and
  - (d) the date and time at which the person attended the Work Premises; and
  - (e) the areas of the Work Premises which the person attended.

*Note 1: where a venue is not staffed, an employer will have complied with the records requirement if they display instructions in a prominent location that clearly explain how patrons and other visitors to the venue should record their details.*

*Note 2: where a person does not have a phone number, an employer may comply with the record-keeping requirement by registering that person's contact details using a phone number for the contact most likely to be able to locate the person, such as a known relative, carer, or the phone number of the employer itself.*

- (7) Subject to subclauses (8) – (13), an employer must:
- (a) comply with subclause (6) using the **Victorian Government QR code system**; and
  - (b) make reasonable efforts to ensure that a person required to record an attendance at the Work Premises in accordance with subclause (a) can do so using the Victorian Government QR code system for that purpose even where they do not have access to a personal mobile phone or other device that enables them to do so; and

*Note: compliance with subclause (b) could include making a terminal (e.g. a tablet or other device) available for persons to register their contact details via the Victorian Government QR code system and staff available to provide assistance to persons to do so.*

- (c) prominently display signage at each entrance to the Work Premises so that **members of the public** can record their attendance using the Victorian Government QR code system; and

*Note: signage may also be displayed nearby to an entrance as well as at the entrance (for example, inside the Work Premises, in a hallway or waiting room near the entrance) if required to prevent people lining up outside or*

*congregating at the entrance.*

- (d) where a Work Premises is:
- (i) a **retail facility** other than a **supermarket**, where the total of all indoor spaces accessible to members of the public is 2,000 square metres or more; or
  - (ii) a **market**,

then:

- (iii) the Work Premises must prominently display signage at all points of sale at the Work Premises so that members of the public can record their attendance using the Victorian Government QR code system; and

*Note 1: Work Premises to which subclause (d) applies are required to comply with the signage requirements in subclause (d) in addition to the signage requirements in subclause (c).*

*Note 2: a point of sale includes where a customer pays for goods or services.*

- (iv) other than for Work Premises that are markets or **retail shopping centres**, a staff member must request all members of the public who attend the Work Premises to record their attendance at an entrance to the Work Premises; and

- (e) where a Work Premises is:
- (i) a retail facility other than a supermarket, where the total of all indoor spaces accessible to members of the public is less than 2,000 square metres; or
  - (ii) a market stall,

then:

- (iii) the Work Premises must prominently display signage at all points of sale at the Work Premises so that members of the public can record their attendance using the Victorian Government QR code system; and

*Note 1: Work Premises to which subclause (e) applies are required to comply with the signage requirements in subclause (e) in addition to the signage requirements in subclause (c).*

*Note 2: a point of sale includes where a customer pays for goods or services.*

- (iv) staff members who interact with a member of the public at a point of service must request that the member of the public record their attendance at the Work Premises; and

*Note: a point of service includes where a worker interacts with a customer other than at a point of sale during their attendance, for*

*example, a waiter attending a table to take an order, or when greeting a customer once they have entered the Work Premises.*

- (f) where a Work Premises is a **food and drink facility**, then:
- (i) the Work Premises must prominently display signage at all points of sale and at all points of service, so that members of the public can record their attendance using the Victorian Government QR code system; and

*Note: Work Premises to which subclause (f) applies are required to comply with the signage requirements in subclause (f) in addition to the signage requirements in subclause (c).*

- (ii) a staff member must request all members of the public attending the Work Premises to record their attendance at:
  - (A) an entrance to the Work Premises; or
  - (B) a point of sale; or
  - (C) a point of service; and

*Note: a point of sale includes where a customer pays for goods or services. A point of service includes where a worker interacts with a customer other than at a point of sale during their attendance, for example, a waiter attending a table to take an order, or when greeting a customer once they have entered the Work Premises. Where a food and drink facility is a food court, a point of service includes the tables provided within the food court.*

- (g) where a Work Premises is a supermarket, then:
- (i) the Work Premises must prominently display signage at all points of sale at the Work Premises so that members of the public can record their attendance using the Victorian Government QR code system; and

*Note 1: Work Premises to which subclause (g) applies are required to comply with the signage requirements in subclause (g) in addition to the signage requirements in subclause (c).*

*Note 2: a point of sale includes where a customer pays for goods or services.*

- (ii) staff members who interact with a member of the public at a point of sale must request that the member of the public record their attendance at the Work Premises.

(8) Where:

- (a) it is not reasonably practicable for a person to record an attendance at a Work Premises using the Victorian Government QR code system; or
- (b) there is an access issue that prevents the Victorian Government QR code system from operating,

then the employer must use an alternative record-keeping method to comply with the records requirement.

*Example 1: worshippers wishing to attend a synagogue on the Sabbath (if permitted by the Directions currently in force) who are prohibited from using the Victorian Government QR code system during the Sabbath could pre-register details with the synagogue, with the details recorded and stored by the synagogue electronically.*

*Example 2: where a venue has no internet coverage, such as in a remote location, manual records could be kept and stored electronically by the venue.*

- (8A) Information collected by an employer using an alternative record-keeping method under subclause (8) must be provided by the employer to **Service Victoria** if requested to do so by the Department or Service Victoria.
- (9) Where a person who attends a Work Premises is unable to check in using the Victorian Government QR code system for the purpose of subclauses (6) or (13), that information may be collected by an employer or an **owner** of a vehicle used as a commercial passenger vehicle service from another person on behalf of the first person using the Victorian Government QR code system for that purpose.
- (10) An employer is not required to comply with the records requirement in subclause (6):
- (a) subject to subclause (13), in relation to members of the public using a commercial passenger vehicle service; or
  - (b) in relation to essential support groups and health services if confidentiality is typically required; or  
*Example: support groups for alcohol and drugs or family violence typically require confidentiality.*
  - (c) in relation to common property areas governed by an owners corporation; or
  - (d) in relation to persons receiving contactless 'click and collect' services where the transaction does not involve entering any indoor space at a Work Premises; or  
*Example: attending a retail facility where a worker drops the goods into the boot of a customer's car whilst the customer remains in the car.*
  - (e) in relation to takeaway food providers in respect of customers attending the premises for the sole purpose of collecting food at a drive-through window; or
  - (f) in relation to service stations in respect of members of the public who do not enter a building and pay using contactless payment methods at the petrol bowser; or
  - (g) in relation to **emergency workers** attending a Work Premises for the purposes of responding to an **emergency** where complying with the records requirement is not practicable in the circumstances; or
  - (h) in relation to attendances at a Work Premises for the purposes of police matters (including investigations), and the administration of justice



where the person who is the subject of the record requests that their attendance is kept confidential; or

- (i) subject to subclause (13), in relation to members of the public using public transport or at a stop or station for passenger services of a public transport service; or
  - (j) subject to subclause (13), in relation to a **tour and charter bus service**, except in relation to workers operating or delivering the tour and charter bus service; or
  - (k) in relation to workers of, or visitors to premises owned or operated by, intelligence agencies who attend that premises for reasons of national security; or
  - (l) in relation to parents, guardians and carers attending a **school, childcare or early childhood service** or outside school hours care service for the purposes of picking up or dropping off children or students, provided the parent, guardian or carer does not enter an indoor space at the school, childcare or early childhood service or outside school hours care service.
- (11) An employer is not required to comply with subclause (7) in relation to Work Premises that are:
- (a) schools, childcare or early childhood services and outside school hours care services in respect of all students, teachers and other school staff (but not visitors, contractors or other workers); or
    - Note: educational facilities (other than schools and childcare or early childhood services and outside school hours care services) are required to comply with subclause (7).*
  - (b) **care facilities** in respect of residents; or
  - (c) a **health service entity**; or
  - (d) farms in respect of workers and other persons attending for work-related purposes; or
  - (e) premises where pre-ordered goods are being delivered via contactless delivery; or
    - Example: a meal delivery service driver attending a premises to drop a meal ordered via an app at the door is not required to check-in at that premises.*
  - (f) a private residence attended by workers for the purposes of undertaking work; or
    - Note: this excludes common property areas governed by an owners corporation.*
  - (g) a **prison, remand centre, youth residential centre, or youth justice centre**; or
  - (h) a site operated by COVID-19 Quarantine Victoria; or



- (i) a site where the use of electronic devices is prohibited due to safety concerns; or

*Example: petrochemical bulk storage and transport, and other flammable liquids sites.*

- (j) a **school bus**; or

- (k) an **early stage land development site**, excluding any site office at that site.

*Example: workers conducting scoping work on empty land prior to the commencement of construction will not be required to check-in using the Victorian Government QR code system. However, a worker entering a site office on otherwise empty land will need to check-in to that office using the Victorian Government QR code system.*

- (12) An employer to whom clause 7 (*accommodation facilities*) of the **Open Premises Directions** as applicable, applies is only required to comply with subclause (7) in respect of a person who:

- (a) is not registered to stay overnight at the **accommodation facility**; and
- (b) attends a communal or shared accommodation space.

- (13) Despite subclause (7):

- (a) an owner of a vehicle used as a commercial passenger vehicle service; or

- (b) an employer in respect of:

- (i) public transport; or
- (ii) a stop or station for passenger services of a public transport service, other than stops or stations that are not regularly staffed; or
- (iii) a tour and charter bus service,

must make available and clearly visible and accessible in the vehicle, stop or station at all times, a sign that allows members of the public in the vehicle or at the stop or station to use the Victorian Government QR code system.

- (14) In handling any information collected under subclause (6):

- (a) an employer who uses or an owner who makes available a system other than the Victorian Government QR code system, must:

- (i) not collect personal information unless:
  - (A) the information is necessary to meet the requirements outlined in subclause (6); or
  - (B) the information is provided by a driver or passenger using the system made available under subclause (13); and
- (ii) use reasonable endeavours to protect the personal information from use or disclosure, other than in accordance with a request

made by an Authorised Officer (or a person assisting an Authorised Officer); and

*Note: information should be collected in a way that protects it from being disclosed to other patrons.*

*Example: where using a paper-based method, a sheet of paper could be placed over previous visitor details on a sheet that records the names.*

- (iii) use reasonable endeavours to notify the person from whom the personal information is being collected that the primary purpose of collection is for SARS-CoV-2 contact tracing, and that their personal information may be collected and stored by the Victorian Government for this purpose; and
- (iv) destroy the information as soon as reasonably practicable following 28 days after the attendance at the Work Premises, unless a statutory requirement permits or requires the personal information to be retained; and

*Note: subclause (a) is intended to apply to employers who use or owners who collect information pursuant to subclauses (6) or (13) using a method other than the Victorian Government QR code system, whether or not:*

- (a) *the employer also uses or the owner also uses the Victorian Government QR code system to comply with subclauses (6) or (13); or*
- (b) *the system used by the employer or made available by the owner links to the Victorian Government QR code system.*

- (b) Service Victoria and/or another operator of the Victorian Government QR code system must destroy the information as soon as reasonably practicable following 28 days after the attendance at the Work Premises unless a statutory requirement permits or requires the personal information to be retained.

*Additional records requirement (additional records requirement)*

- (15) An employer must keep records to demonstrate compliance with these directions, including (but not limited to):
  - (a) all logs created during the time these directions are in place;
  - (b) Work Premises rosters;
  - (c) time and attendance records;
  - (d) payroll data.
- (16) In collecting the information outlined in subclause (15), an employer must:
  - (a) use reasonable endeavours to protect the personal information from use or disclosure, other than in accordance with a request made by an Authorised Officer; and

- (b) destroy the information as soon as reasonably practicable, unless another statutory requirement permits or requires the personal information to be retained.

*Signage requirements (signage requirement)*

- (17) Where a Work Premises has a publicly accessible space to which the density quotient specified in the **Open Premises Directions** or the **Stay Safe Directions (Victoria)** applies, an employer must display a sign at each public entry to each such space that includes a statement specifying the maximum number of members of the public that may be present in the space at a single time, being the number permitted by the density quotient, rounded down to the nearest whole number.
- (18) Where any other Directions currently in force require a face covering to be worn in a Work Premises or part of a Work Premises:
  - (a) an employer in relation to that Work Premises; or
  - (b) a person who owns, operates or controls that Work Premises,must display a sign at each public entry advising that each person entering the Work Premises must wear a face covering, unless an exception under a Direction currently in force applies.

*Cleaning requirements (cleaning requirement)*

- (19) An employer must take all reasonable steps to ensure that shared spaces at which work is performed and areas accessible to members of the public at any Work Premises are **cleaned** on a regular basis, including:
  - (a) frequently touched surfaces, including toilets and handrails, are cleaned at least twice on any given day; and
  - (b) surfaces are cleaned when visibly soiled; and
  - (c) if a function is to occur, a reasonable period of time has elapsed since the conclusion of any earlier function to allow for cleaning in between the functions; and
  - (d) surfaces accessible to a particular group are cleaned between groups; and
    - Example: cleaning surfaces between shifts of workers.*
  - (e) surfaces are cleaned immediately after a spill on the surface.
- (20) To ensure a surface is cleaned for the purposes of these directions, a person must wipe the surface with a detergent before applying a disinfectant:
  - (a) the label of which states a claim by the manufacturer that the disinfectant has anti-viral properties; or
  - (b) made by a person according to instructions issued by the Department.
- (21) A person who owns, operates or controls a market stall, market or retail shopping centre must comply with the cleaning requirement respectively for the market stall, market or the common areas of the retail shopping centre.

## 7 Responding to a suspected case of SARS-CoV-2 in a Work Premises

- (1) An employer must not require a worker to perform work at a Work Premises if the worker is displaying one or more **SARS-CoV-2 Symptoms**.
- (2) As soon as practicable after becoming aware of a suspected case in a worker who has attended a Work Premises in the period commencing 48 hours prior to the onset of symptoms, an employer must:
  - (a) advise the worker to **self-isolate** immediately and support the worker in doing so, by either:
    - (i) directing the worker to travel home immediately (and providing support to the worker to do so); or
    - (ii) where the worker is unable to travel home immediately, directing the worker to isolate themselves at the Work Premises and, whilst doing so, to wear a face covering and remain at least 1.5 metres from any other person at the Work Premises, until the worker can return home later that day to self-isolate; and

*Note: the worker should isolate in a separate room from other persons, where possible.*

- (b) advise the worker to be tested for SARS-CoV-2 as soon as practicable, and to self-isolate whilst awaiting the result of that test; and
- (c) ensure appropriate records are maintained in accordance with clause 6(6) in order to support contact tracing if the suspected case becomes a confirmed case, particularly from the period commencing 48 hours prior to the onset of symptoms in the suspected case; and

*Note: this will include, for example, rosters and worker details, and details of all visitors to the Work Premises, to ascertain which persons were present at the Work Premises and who they may have come into contact with.*

- (d) inform all workers (including the **health and safety representative**) to be vigilant about the onset of symptoms of SARS-CoV-2 and advise all workers to be tested for SARS-CoV-2 and self-isolate if they become symptomatic.

## 8 Responding to a confirmed case of SARS-CoV-2 in a Work Premises

- (1) A worker who has received a positive test result for SARS-CoV-2 must, as soon as practicable, notify the operator of any Work Premises at which the **diagnosed person** ordinarily works, if the diagnosed person attended an indoor space at the work premises during their Infectious Period.
- (2) As soon as practicable after becoming aware of a diagnosed person who has attended the Work Premises in the Infectious Period, the operator must:
  - (a) notify the Department and WorkSafe in accordance with the **Occupational Health and Safety (COVID-19 Incident Notification) Regulations 2021** and the health and safety representative at the Work Premises; and

- (b) to the extent not already completed, direct the **diagnosed worker** not to attend the Work Premises and advise them to self-isolate in accordance with clause 7(2)(a); and
- (c) take reasonable steps to notify all workers who were present at the same indoor space that they:
  - (i) may have been exposed to SARS-CoV-2; and
  - (ii) must undertake a test for SARS-CoV-2 within 24 hours of receiving the notification that they may have been exposed to SARS-CoV-2; and
  - (iii) must notify the operator of the Work Premises of their test result; and
- (d) inform all workers (including health and safety representatives) to be vigilant about the onset of SARS-CoV-2 Symptoms and advise all workers to be tested for SARS-CoV-2 and **self-quarantine** if they become symptomatic; and
- (e) put in place appropriate control and/or risk management measures to reduce the risk of spreading SARS-CoV-2 at the Work Premises; and
 

*Note: employers are encouraged to ensure that any risks identified from the confirmed case are addressed in these control measures.*

*Examples: increasing the implementation and enforcement of control measures with respect to PPE (such as face coverings) and physical distancing.*
- (f) contact the Department (or other entity nominated by the Department on its website) and:
  - (i) notify it of the actions taken in accordance with subclauses (2)(a) to (e); and
  - (ii) provide it with a copy of the risk assessment conducted in accordance with subclause (2)(C); and
  - (iii) provide the Department (or other entity nominated by the Department) with contact details of any exposed persons (whether or not workers) identified pursuant to subclause 2(a); and
  - (iv) comply with any further directions given by the Department or WorkSafe in relation to closure of the Work Premises (or part of the Work Premises) and/or cleaning; and
- (g) where the Work Premises (or part of the Work Premises) is closed, not re-open that Work Premises (or that part of the Work Premises which was closed) until all of the following have occurred:
  - (i) the employer has complied with all of its obligations under subclauses (2)(a) to (f); and
  - (ii) the Department has completed all relevant contact tracing.

*Note: employers must comply with their obligations under occupational health and safety laws, including notifying WorkSafe in accordance with the **Occupational Health and Safety (COVID-19 Incident Notification) Regulations 2021**.*

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

- (3) A worker who has been notified under subclause (2)(c) that they may have been exposed to SARS-CoV-2 must:
  - (c) self-quarantine immediately from the time they were notified that they may have been exposed to SARS-CoV-2; and
  - (d) undertake a test for SARS-CoV-2 within 24 hours of being notified that they may have been exposed to SARS-CoV-2; and
  - (e) remain in self-quarantine until they receive a negative test result for SARS-CoV-2 result; and
  - (f) notify the operator of the relevant Work Premises of their test result.

### **9 Relationship with other directions**

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.

### **10 Definitions**

For the purposes of these directions:

- (1) **accommodation facility** has the same meaning as in the **Open Premises Directions**;
- (2) **additional records requirement** has the meaning in clause 6(15) and 6(16) (both inclusive);
- (3) **Authorised Officer** has the same meaning as in the **PHW Act**;
- (4) **bus company** has the same meaning as in the **Transport (Compliance and Miscellaneous) Act 1983**;
- (5) **Care Facilities Directions** means the **Care Facilities Directions (No 50)** as amended or replaced from time to time;
- (6) **care facility** has the same meaning as in the **Care Facilities Directions**;
- (7) **childcare or early childhood service** means onsite early childhood education and care services or children's services provided under the:
  - (a) **Education and Care Services National Law** and the **Education and Care Services National Regulations**, including long day care services, kindergartens and/or preschool and family daycare services, but not including outside **school** hours care services; and
  - (b) **Children's Services Act 1996**, including limited hours services, budget based funded services, occasional care services, early

childhood intervention services, mobile services and (if applicable) school holiday care programs;

- (8) **cleaned** has the meaning in clause 6(20);
- (9) **cleaning requirement** has the meaning in clause 6(19) to (21) (both inclusive);
- (10) **commercial passenger vehicle service** has the meaning given in section 4 of the **Commercial Passenger Vehicle Industry Act 2017**;
- (11) **common areas** of a **retail shopping centre** has the same meaning as in the **Retail Leases Act 2003**;
- (12) **confirmed case** means a diagnosis of **SARS-CoV-2** in a **worker** at the **Work Premises**;
- (13) **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;
- (14) **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;
- (15) **COVID-19 Mandatory Vaccination (Workers) Directions** means the **COVID-19 Mandatory Vaccination (Workers) Directions (No 8)** as amended or replaced from time to time;
- (16) **COVIDSafe Plan** has the meaning in clause 6(2);
- (17) **Department** means the Department of Health;
- (18) **diagnosed person** has the same meaning as in the **Diagnosed Persons and Close Contacts Directions**;
- (19) **Diagnosed Persons and Close Contacts Directions** means the **Diagnosed Persons and Close Contacts Directions (No 35)** as amended or replaced from time to time;
- (20) **diagnosed worker** means a **worker** who is a **diagnosed person**;
- (21) **Direction and Detention Notice** means a notice given to a person requiring the person to be detained for a specified period;
- (22) **Directions currently in force** means the **Stay Safe Directions (Victoria)**, the **Workplace Directions**, the **Workplace (Additional Industry Obligations) Directions**, the **Victorian Border Crossing Permit Directions**, the **COVID-19 Mandatory Vaccination (General Workers) Directions**, the **COVID-19 Mandatory Vaccination Directions (Specified Facilities) Directions**, the **COVID-19 Mandatory Vaccination (Workers) Directions**, the **Hospital Visitors Directions**, the **Care Facilities Directions**, the **Open Premises Directions**, and the **Diagnosed Persons and Close Contacts Directions** each as amended or replaced from time to time;
- (23) **early stage land development site** means an open air, greenfields site where civil works are being undertaken that are associated with, and



preparatory to, the construction of multiple individual residential dwellings or an industrial or commercial development on that site, including but not limited to:

- (a) site remediation works;
- (b) site preparation works;
- (c) construction of utilities, roads, bridges and trunk infrastructure;
- (d) stormwater or flood management works;

but such a site ceases to be an early stage land development site:

- (e) for a residential development where the development is, or will be, subdivided to facilitate the construction of individuals dwellings, on the day that the construction of a dwelling on that part of the subdivision (or planned subdivision) of the early stage land development site commences; and
- (f) for a residential development where the development has not been subdivided and it is not intended that the development will be subdivided in the future, on the day that construction commences; and

*Examples: this type of residential development includes a high-rise apartment complex or a retirement village.*

- (g) for an industrial or commercial development, on the day that construction of a building, warehouse or other physical structure commences;

- (24) **education premises** has the same meaning as in the **Stay Safe Directions (Victoria)**;
- (25) **emergency** has the same meaning as in the **Emergency Management Act 2013**;
- (26) **emergency worker** has the same meaning as in the **Sentencing Act 1991**;
- (27) **employee** includes a person who is self-employed;
- (28) **employer** means a person who owns, operates or controls **Work Premises** (or a Work Premises) and includes a person who is self-employed;
- (29) **exposed person** means any person who has had face-to-face contact of any duration, or who has shared a closed space, with a **confirmed case** during their **Infectious Period** at a **Work Premises**;
- (30) **face covering** means a fitted face mask that covers the nose and mouth to provide the wearer protection against infection;
- (31) **food and drink facility** has the same meaning as in the **Open Premises Directions**;
- (32) **general worker** has the same meaning as in the **COVID-19 Mandatory Vaccination (General Workers) Directions**;
- (33) **health and safety representative** has the same meaning as in the **OHS Act**;

- (34) **health service entity** has the same meaning as in the **Health Services Act 1988**;
- (35) **higher education services** means educational services provided at or by a university, vocational education and training providers (including registered training organisations), technical and further education (TAFE) institutes, adult community and further education, and other post-compulsory education or training;
- (36) **hospital** has the same meaning as in the **Hospital Visitor Directions**;
- (37) **Hospital Visitor Directions** means the **Hospital Visitor Directions (No 40)** as replaced or amended from time to time;
- (38) **indoor space** has the same meaning as in the **Open Premises Directions**;
- (39) **indoor zone** means a section of an **indoor space** that:
- (a) is designated by the person who owns, controls or operates the indoor space as being for the exclusive use of specified **members of the public**; and
  - (b) is delineated by temporary barriers, tape or other clearly visible markings or means;
- (40) **Infectious Period** has the same meaning as in the **Diagnosed Persons and Close Contacts Directions**;
- (41) **inspector** has the same meaning as in the **OHS Act**;
- (42) **market** means a public market, whether indoor or outdoor, including a food market;
- (43) **member of the public** is a person but does not include:
- (a) a person who is an **employee** of an operator of the facility or venue; or
  - (b) any other person who attends the facility or venue that is reasonably necessary for providing a service at the facility or venue;
- (44) **OHS Act** means the **Occupational Health and Safety Act 2004**;
- (45) **Open Premises Directions** means the **Open Premises Directions (No 7)** as replaced or amended from time to time;
- (46) **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. Also, 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.*

- (47) **outdoor space** has the same meaning as in the **Open Premises Directions**;
- (48) **owner** has the same meaning as in the **Commercial Passenger Vehicle Industry Act 2017**;
- (49) **owners corporation** has the same meaning as in the **Owners Corporations Act 2006**;
- (50) **passenger services** has the same meaning as in the **Transport Integration Act 2010**;
- (51) **passenger transport company** has the same meaning as in the **Transport (Compliance and Miscellaneous) Act 1983**;
- (52) **PHW Act** means the **Public Health and Wellbeing Act 2008**;
- (53) **place of worship** has the same meaning as in the **Heritage Act 2017**;
- (54) **PPE** means personal protective equipment;
- (55) **premises** has the same meaning as in the **PHW Act**;
- (56) **prison** has the same meaning as in the **Corrections Act 1986**;
- (57) **public transport** means a vehicle operated by a **passenger transport company** or by a **bus company** in the provision of **public transport service** but does not include a **school bus**;
- (58) **public transport service** has the same meaning as in the **Transport (Compliance and Miscellaneous) Act 1983**;
- (59) **reasonably practicable** is to have its ordinary and common sense meaning;
- (60) **records requirement** has the meaning in clause 6(6) to (14) (both inclusive);
- (61) **remand centre** has the same meaning as in the **Children, Youth and Families Act 2005**;
- (62) **retail facility** means a **premises**, or part of a premises, that are used wholly or predominantly for the sale or hire of goods by retail, the retail provision of services and includes a **market, retail shopping centre** and **supermarkets**;
- (63) **retail shopping centre** has the same meaning as in the **Retail Leases Act 2003**;
- (64) **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;

- (65) **school** means a registered school as defined in the **Education and Training Reform Act 2006**;
- (66) **school bus** means any bus while being used as part of:
- (a) the **School Bus Program**; or
  - (b) the **Students with Disabilities Transport Program**; or
  - (c) a private arrangement between a **school** at a **bus company**;
- (67) **School Bus Program** means the program of that name administered by the Department of Education and Training;
- (68) **self-isolate** has the same meaning as in the **Diagnosed Persons and Close Contacts Directions**;
- (69) **self-quarantine** has the same meaning as in the **Diagnosed Persons and Close Contacts Directions**;
- (70) **Service Victoria** has the same meaning as in the **Service Victoria Act 2018**;
- (71) **Service Victoria CEO** has the same meaning as in the **Service Victoria Act 2018**;
- (72) **signage requirement** has the meaning in clauses 6(17) and (18);
- (73) **Stay Safe Directions (Victoria)** means the **Stay Safe Directions (Victoria) (No 29)** as amended or replaced from time to time;
- (74) **Students with Disabilities Transport Program** means the program of that name administered by the Department of Education and Training;
- (75) **supermarket** has the same meaning as supermarket business in the **Food Act 1984**;
- (76) **suspected case** means a person who is displaying one or more **SARS-CoV-2 Symptoms**;
- (77) **tour and charter bus service** has the same meaning as in the **Bus Safety Act 2009**;
- (78) **vehicle** has the same meaning as in the **PHW Act**;
- (79) **Victorian Border Crossing Permit Directions** means the **Victorian Border Crossing Permit Directions (No 40)** as amended or replaced from time to time;
- (80) **Victorian Government QR code system** means the digital system provided by the **Service Victoria CEO** and other parts of the Victorian Government that is known as the “Service Victoria app” or the “Victorian Government QR Code Service”;
- (81) **Work Premises** means a **premises** in which work is undertaken, including any **vehicle** whilst being used for work purposes, but excluding a person's ordinary place of residence.

*Note: this includes a community facility such as a community centre or community hall, or a public library, or a **place of worship**, or a home or residential property when a business is operated from that home or residential property.*

- (82) **worker** includes **employees**, subcontractors (and their employees), volunteers and any other person engaged or permitted by an **employer** to perform work;
- (83) **Workplace (Additional Industry Obligations) Directions** means the **Workplace (Additional Industry Obligations) Directions (No 58)** as amended or replaced from time to time;
- (84) **WorkSafe** means WorkSafe Victoria;
- (85) **youth justice centre** has the same meaning as in the **Children, Youth and Families Act 2005**;
- (86) **youth residential centre** has the same meaning as in the **Children, Youth and Families Act 2005**.

## 11 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 without reasonable excuse 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 who refuses or fails to comply.*



**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