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Public Health and Wellbeing Act 2008

Section 200

DIRECTION FROM PUBLIC HEALTH COMMANDER IN ACCORDANCE WITH EMERGENCY POWERS ARISING FROM DECLARED STATE OF EMERGENCY

Diagnosed Persons and Close Contacts Directions (No. 8)

I, Dr Finn Romanes, Public Health Commander, consider it reasonably necessary to protect public health to give the following directions pursuant to section 200(1)(b) and (d) of the **Public Health and Wellbeing Act 2008** (Vic.) (**PHW Act**):

1 Preamble

- (1) The purpose of these directions is to require persons:
 - (a) diagnosed with Novel Coronavirus 2019 (**2019-nCoV**) to self-isolate;
 - (b) who are living with a diagnosed person, or who have been in close contact with a diagnosed person, to self-quarantine;in order to limit the spread of 2019-nCoV.
- (2) These directions replace the **Diagnosed Persons and Close Contacts Directions (No. 7)**, and alter the circumstances in which a person required to self-isolate or self-quarantine under these directions may leave the premises at which they are required to self-isolate or self-quarantine.

2 Citation

- (1) These directions may be referred to as the **Diagnosed Persons and Close Contacts Directions (No. 8)**.
- (2) A reference in any other direction to the **Diagnosed Persons and Close Contacts Directions (No. 7)** is taken to be a reference to these directions.

3 Commencement and revocation

- (1) These directions commence at 11:59:00 pm on 3 August 2020.
- (2) The **Diagnosed Persons and Close Contacts Directions (No. 7)** are revoked at 11:59:00 pm on 3 August 2020.

4 Self-isolation for diagnosed persons

Who is a diagnosed person?

- (1) A person is a **diagnosed person** if the person:
 - (a) at any time between midnight on 25 March 2020 and 11:59:00 pm on 16 August 2020 has been informed that they have been diagnosed with 2019-nCoV; and
 - (b) has not been given, or is not taken to have been given, **clearance from self-isolation** under clause 5.

Requirement to self-isolate

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

Note: the requirements of self-isolation are specified in clause 8. A diagnosed person can still leave the premises at which they are self-isolating to obtain medical care.

SPECIAL

Location of self-isolation

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

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

Note 2: once a person has chosen the premises at which to self-isolate, the person must reside at that premises for the entirety of the period of self-isolation: see clause 8(2)(a).

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

Self-isolation period

- (6) For the purposes of subclause (2), the period of self-isolation begins:
- (a) if subclause (2)(a) applies, when the diagnosis is communicated to the person; or
 - (b) if subclause (2)(b) applies, upon the commencement of these directions.
- (7) For the purposes of subclause (2), the period of self-isolation ends when the person is given **clearance from self-isolation** under clause 5.

Notifications by the diagnosed person

- (8) Immediately after choosing a premises under subclause (4), the diagnosed person must:
- (a) if any other person is residing at the premises chosen by the diagnosed person, notify the other person that:
 - (i) the diagnosed person has been diagnosed with 2019-nCoV; and
 - (ii) the diagnosed person has chosen to self-isolate at the premises; and
 - (b) notify the Department of:
 - (i) the address of the premises chosen by the diagnosed person; and
 - (ii) the name of any other person who is residing at the premises chosen by the diagnosed person.
- (9) If, during the period that a diagnosed person is self-isolating at a premises for the purposes of clause 4, another person informs the diagnosed person that they intend to commence residing at the premises chosen by the diagnosed person:
- (a) the diagnosed person must inform the other person of their diagnosis; and
 - (b) if the other person commences residing at the premises, the diagnosed person must notify the Department that a person has commenced residing with the diagnosed person and of the name of that person.

5 Clearance from self-isolation

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

6 Self-quarantine for close contacts

Who is a close contact?

- (1) For the purposes of this clause, a person is a **close contact** if:
 - (a) an officer or nominated representative of the Department has made a determination under subclause (2) in relation to the person; and
 - (b) between midnight on 11 May 2020 and 11:59:00 pm on 16 August 2020, the person has been given notice of the determination in accordance with subclause (3).
- (2) For the purposes of subclause (1)(a), an officer or nominated representative of the Department may make a determination in relation to a person if the officer or nominated representative is satisfied, having regard to Departmental Requirements, that the person has had close contact with another person who:
 - (a) since the time of last contact, has become a diagnosed person; or
 - (b) at the time of last contact, was a diagnosed person.

Note: under the Departmental Requirements, a person is generally considered to have had close contact if, in the period extending from 48 hours before onset of symptoms in the diagnosed person:

- *they have had face-to-face contact in any setting with the diagnosed person for more than a total of 15 minutes over the course of a week; or*
- *they have shared a closed space with a diagnosed person for a prolonged period (for example, more than 2 hours).*

- (3) For the purposes of subclause (1)(b), the notice:
 - (a) must specify the time (including by reference to an event) at which the person will no longer be required to self-quarantine, having regard to Departmental Requirements; and
Example: the notice could specify that a person is no longer required to self-quarantine from 14 days after a diagnosed person who the person is living with receives clearance from self-isolation.
 - (b) may be given orally or in writing, and, if given orally, must be confirmed in writing as soon as reasonably practicable; and
 - (c) is not required to be in a particular form.

Requirement to self-quarantine

- (4) A **close contact** must **self-quarantine** under these directions.

Note: the requirements of self-quarantine are specified in clause 8.

Location of self-quarantine

- (5) A close contact may choose to self-quarantine at:
- (a) a premises at which they ordinarily reside; or
 - (b) another premises that is suitable for the person to reside in for the purpose of self-quarantine.

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

Note 2: once a person has chosen the premises at which to self-quarantine, the person must reside at that premises for the entirety of the period of self-quarantine: see clause 8(2)(a).

- (6) If, at the time a person is given a notice under subclause (1)(b), the person is not at the premises chosen by the person under subclause (5), the person must immediately and directly travel to that premises.

End of self-quarantine period

- (7) For the purposes of this clause, the period of self-quarantine ends:
- (a) subject to paragraph (c), at the time specified in the notice given under subclause (1)(b) as given or as varied under subclause (9); or
 - (b) if the notice given to the person under subclause (1)(b) is revoked under subclause (9), at the time that revocation takes effect; or
 - (c) if the person becomes a diagnosed person following a test for 2019-nCoV – when the diagnosis is communicated to the person.

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

Exception – previous clearance

- (8) A person is not required to self-quarantine under this clause if, before the time that notice is given under subclause (1)(b), the person has been given, or is taken to have been given, clearance from self-isolation under clause 5.

Review of determination and notice

- (9) An **authorised officer**, who is authorised to exercise **emergency powers** by the Chief Health Officer under section 199(2)(a) of the PHW Act, may review a determination made under subclause (2) and, if satisfied that it is appropriate, having regard to Departmental Requirements, may vary or revoke the notice given to the person under subclause (1)(b), and must give the person notice of the authorised officer's decision.

Transitional provision – close contacts under Revoked Isolation Directions

- (10) If a person was a close contact under a Revoked Isolation Direction:
- (a) a determination made, or taken to have been made, under the Revoked Isolation Direction in relation to the person's status as a close contact is taken to be a determination made under subclause (2); and
 - (b) a notice given, or taken to have been given, to the person under the Revoked Isolation Direction in relation to the determination referred to in paragraph (a) is taken to be a notice given under subclause (1)(b); and
 - (c) for the purposes of subclause (5), the person is taken to have chosen to self-quarantine at the premises at which the person was required to self-quarantine under the Revoked Isolation Direction.

Note: a person who was required to self-quarantine under previous directions because they reside with a person who is, or was, a diagnosed person, are now treated as close contacts, and also continue to be required to self-quarantine for the period determined by the previous directions, unless that period is altered pursuant to subclause (9).

7 Testing of persons in self-quarantine

- (1) If a person is required to self-quarantine under clause 6 and, during the period of self-quarantine, the person:
 - (a) is tested for 2019-nCoV; and
 - (b) the period for which the person is required to self-quarantine under clause 6 expires during the period in which the person is awaiting the result of that test, the period of self-quarantine is extended until the person receives the result of the test.

Note: persons who are in self-quarantine and experience a temperature higher than 37.5 degrees or symptoms of acute respiratory infection are encouraged to get tested. In certain circumstances, a person may be required to comply with an order that they undergo a medical test: PHW Act, section 113(3).
- (2) If a person is required to self-quarantine under clause 6 and, during the period of self-quarantine, the person receives a test result stating that they have been diagnosed with 2019-nCoV, the person becomes a diagnosed person and must self-isolate under clause 4.
- (3) If a person is required to self-quarantine under clause 6 and, during the period of self-quarantine, the person receives a test result stating that they have not been diagnosed with 2019-nCoV:
 - (a) if the period for which the person is required to self-quarantine under clause 6 has not expired – must continue to self-quarantine under that clause for the remainder of that period; or
 - (b) if the period of self-quarantine was extended under subclause (1) – may cease self-quarantining.

8 Requirements of self-isolation and self-quarantine

- (1) This clause applies to a person who is required to:
 - (a) **self-isolate** at a premises under clause 4; or
 - (b) **self-quarantine** at a premises under clause 6.
- (2) The person identified in subclause (1):
 - (a) must reside at that premises for the entirety of the period of self-isolation or self-quarantine, as the case requires, except for any period that the person is admitted to a hospital or other facility for the purposes of receiving medical care; and
 - (b) must not leave the premises, except:
 - (i) for the purposes of obtaining medical care or medical supplies; or
 - (ii) in any emergency situation; or
 - (iii) if required to do so by law; or
 - (iv) for the purposes of visiting a patient in hospital if permitted to do so under the **Hospital Visitor Directions (No. 9)**; or
 - (v) for the purposes of working in a care facility if permitted to do so under the **Care Facilities Directions (No. 9)**; and
 - (c) must not permit any other person to enter the premises unless:
 - (i) that other person:
 - (A) ordinarily resides at the premises; or
 - (B) is required to self-isolate or self-quarantine at the premises under these directions; or
 - (ii) it is necessary for the other person to enter for medical or emergency purposes; or

- (iii) the other person is a **disability worker**, and it is necessary for the disability worker to enter for the purpose of providing a **disability service** to a person with a **disability**; or
 - (iv) it is necessary for the other person to enter for the purpose of providing personal care or household assistance to the person as a result of that person's age, disability or chronic health condition; or
Example: personal care includes assistance with showering, toileting, eating; household assistance includes help with cooking, house cleaning, laundry and gardening.
 - (v) the entry is otherwise required or authorised by law.
- (3) Subclause (2)(c) does not apply to a person who is a **resident of a care facility**.
Note: the Care Facilities Directions (No. 9) govern who can enter a care facility.

9 Exemption power

- (1) A person is not required to comply with a requirement of these directions if the person is granted an exemption from that requirement under subclause (2).
- (2) The Chief Health Officer or Deputy Chief Health Officer may exempt a person or a group of persons, from any or all requirements contained in these directions, if satisfied that an exemption is appropriate, having regard to the:
 - (a) need to protect public health; and
 - (b) principles in sections 5 to 10 of the PHW Act, as appropriate.
- (3) An exemption under subclause (2) must:
 - (a) be given, in writing, to the person the subject of the exemption; and
 - (b) specify the requirement or requirements that the person need not comply with.
- (4) An exemption granted to a person under this clause does not prevent an authorised officer from exercising an emergency power to give the person a different direction or impose a different requirement on the person.

10 Definitions

In these directions:

- (1) **authorised officer** has the same meaning as in the PHW Act;
- (2) **care facility** has the same meaning as in the **Care Facilities Directions (No. 9)**;
- (3) **Department** means the Victorian Department of Health and Human Services;
- (4) **Departmental Requirements** means the document titled "COVID-19 Pandemic Plan for the Victorian Health Sector", as amended from time to time;
*Note: the Departmental Requirements are available at:
<https://www2.health.vic.gov.au/about/publications/ResearchAndReports/covid-19-pandemic-plan-for-vic>*
- (5) **emergency powers** has the same meaning as in the PHW Act;
- (6) **hospital** has the same meaning as in the **Hospital Visitor Directions (No. 9)**;
- (7) **premises** means:
 - (a) a building, or part of a building; and
 - (b) any land on which the building is located, other than land that is available for communal use;
- (8) **resident** of a care facility has the same meaning as in the **Care Facilities Directions (No. 9)**;
- (9) **Revoked Isolation Direction** means the following directions:
 - (a) **Isolation (Diagnosis) Direction**, given on 25 March 2020;
 - (b) **Isolation (Diagnosis) Direction (No. 2)**, given on 13 April 2020;
 - (c) **Diagnosed Persons and Close Contacts Directions**, given on 11 May 2020;

- (d) **Diagnosed Persons and Close Contacts Directions (No. 2)**, given on 31 May 2020;
 - (e) **Diagnosed Persons and Close Contacts Directions (No. 3)**, given on 21 June 2020;
 - (f) **Diagnosed Persons and Close Contacts Directions (No. 4)**, given on 1 July 2020;
 - (g) **Diagnosed Persons and Close Contacts Directions (No. 5)**, given on 15 July 2020;
 - (h) **Diagnosed Persons and Close Contacts Direction (No. 6)**, given on 19 July 2020;
 - (i) **Diagnosed Persons and Close Contacts Direction (No. 7)**, given on 22 July 2020;
- (10) the following expressions have the same meaning that they have in the **Disability Service Safeguards Act 2018**:
- (a) disability;
 - (b) disability service;
 - (c) disability worker.

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.

Dated 3 August 2020

DR FINN ROMANES
Public Health Commander,
as authorised to exercise emergency powers by the Chief Health Officer
under section 199(2)(a) of the PHW Act

Public Health and Wellbeing Act 2008

Section 200

DIRECTIONS FROM PUBLIC HEALTH COMMANDER IN ACCORDANCE WITH
EMERGENCY POWERS ARISING FROM DECLARED STATE OF EMERGENCY

Care Facilities Directions (No. 9)

I, Dr Finn Romanes, Public Health Commander, consider it reasonably necessary to protect public health to give the following directions pursuant to section 200(1)(b) and (d) of the **Public Health and Wellbeing Act 2008** (Vic.) (**PHW Act**):

1 Preamble

- (1) The purpose of these directions is to make provision for restricted access to care facilities in order to limit the spread of Novel Coronavirus 2019 (**2019-nCoV**) within a particularly vulnerable population.
- (2) These directions replace the **Care Facilities Directions (No. 8)**, and permit certain workers who might otherwise be excluded from entering or remaining in a residential aged care facility to continue to work in the facility where authorised to do so by both the Director of the facility (or equivalent) and the Chief Health Officer (or a person authorised by the Chief Health Officer), subject to conditions.

2 Revocation

- (1) The **Care Facilities Directions (No. 8)** are revoked at 11:59:00 pm on 3 August 2020.
- (2) A reference in any other direction to the **Care Facilities Directions (No. 8)** is taken to be a reference to these directions.

3 Citation

These directions may be referred to as the **Care Facilities Directions (No. 9)**.

4 Definition of care facility

A **care facility** is a facility in Victoria that is:

- (1) an **alcohol and drug residential service**;
- (2) a **homelessness residential service**;
- (3) a **residential aged care facility**;
- (4) a **disability residential service**;
- (5) an **eligible SDA enrolled dwelling**;
- (6) a **secure welfare service**;
- (7) a **short-term accommodation and assistance dwelling**;
- (8) a **supported residential service**;
- (9) the **Thomas Embling Hospital**.

5 Prohibition on entry

- (1) A person must not enter, or remain on, the premises of a **care facility** between (and including) 11:59:00 pm on 3 August 2020 and 11:59:00 pm on 16 August 2020 unless:
 - (a) the person is a **resident** of the facility; or
 - (b) the person is a **worker** in relation to the facility, as defined in clause 6; or
 - (c) the person is a **visitor** in relation to the facility, as defined in clause 7, and the person's visit complies with the limits in that clause.

Excluded persons

- (2) Despite subclause (1), a person who is a worker or a visitor in relation to a care facility must not enter, or remain on, the premises of the facility between (and including) 11:59:00 pm on 3 August 2020 and 11:59:00 pm on 16 August 2020 if:
- (a) the person has been diagnosed with 2019-nCoV, and has not yet been given, or taken to have been given, clearance from self-isolation under the **Diagnosed Persons and Close Contacts Directions (No. 8)**; or
 - (b) during the 14 days immediately preceding the entry, the person arrived in Australia from a place outside Australia; or
 - (c) during the 14 days immediately preceding the entry, the person had known contact with a person who has been diagnosed with 2019-nCoV; or
- Note: a person who has had known contact with a person who has been diagnosed with 2019-nCoV may also be required to self-quarantine under the Diagnosed Persons and Close Contacts Directions (No. 8).*
- (d) the person has a temperature higher than 37.5 degrees or symptoms of acute respiratory infection; or
 - (e) the person is aged under 16 years, other than in circumstances where:
 - (i) the person's presence at the premises is for the purposes of end of life support for a resident of the facility; and
 - (ii) the person is a child, grandchild or sibling of the resident; or
 - (f) in the case of a visitor – the person has been tested for 2019-nCoV, and has not yet received the results of that test.

Certain excluded persons may be permitted to work in a residential aged care facility

- (3) Despite subclause (2), a person referred to in subclause (2)(c) may enter, or remain on, the premises of a residential aged care facility if:
- (a) the person is a worker in relation to the residential aged care facility under clause 6; and
 - (b) the person is authorised to enter or remain at the residential aged care facility by:
 - (i) an officer of the residential aged care facility with the position of Director of the facility or equivalent; and
 - (ii) the Chief Health Officer, or a person authorised by the Chief Health Officer to exercise this power of authorisation.
- (4) A person authorised to enter or remain at a residential aged care facility under subclause (3) must comply with any directions or conditions to which that authorisation is subject.

Note: residential aged care facilities may, jointly with the Chief Health Officer (or a person authorised by the Chief Health Officer), determine whether workers at the facility who have been in close contact with a person who has been diagnosed with 2019-nCoV may continue to work at the facility. Further, a person who has received an authorisation must comply with any conditions imposed on it by either or both of the facility and the Chief Health Officer (or authorised person).

6 Definition of worker

- (1) A person is a **worker** in relation to a care facility if:
- (a) the person is the **operator** of the facility or an **employee or contractor** in relation to the facility; or
 - (b) the person's presence at the premises of the facility is for the purposes of providing goods or services that are necessary for the effective operation of the facility, whether the goods or services are provided for consideration or on a voluntary basis; or

- (c) the person's presence at the premises of the facility is for the purposes of providing any of the following goods or services to a resident of the facility, whether the goods or services are provided for consideration or on a voluntary basis:
 - (i) health, medical, or pharmaceutical goods or services;
 - (ii) behavioural support services;
 - (iii) functional and well-being support services; or
Examples: hairdressing, diversional and recreational therapies, music therapies.
 - (iv) other support services; or
- (d) in the case of a disability residential service or an eligible SDA enrolled dwelling – the person's presence at the premises of the facility is for the purposes of providing treatment under a treatment plan to a resident of the facility, whether the treatment is provided for consideration or on a voluntary basis; or
- (e) in the case of a secure welfare service – the person's presence at the premises of the facility is for the purposes of providing educational services to a resident of the facility, whether the goods or services are provided for consideration or on a voluntary basis; or
- (f) the person's presence at the premises of the facility is authorised or required for the purposes of emergency management, law enforcement, or the performance of a duty, function or power under a law.

7 Definition of visitor, limits on visits

- (1) A person is a **visitor** in relation to a care facility if:
 - (a) the person is described in one of subclauses (2)(a) to (2)(j); and
 - (b) the person's visit to the care facility satisfies the limits specified in italics below the relevant subclause.
- (2) A person may visit a resident at a care facility if:
 - (a) in the case of a resident of a facility aged under 18 years – the person is the parent or guardian of the resident or has temporary care of the resident; or
Limit: only 1 visitor at any one time.
 - (b) in the case of a resident of a facility aged 18 years or over – the person is the parent, guardian, partner, carer or support person of the resident, and the person's visit is for the purpose of providing emotional and social support to the resident that cannot be provided by that person via electronic or other non-contact means; or
Limit: only 1 visitor, once per day, for a maximum of 1 hour.
 - (c) in the case of a resident of the facility who has a mental illness – the person is the resident's **nominated person** and the person's presence at the facility is for the purposes of matters relating to their role as nominated person; or
Limit: only 1 visitor at any one time, for a maximum of 1 hour per visit.
 - (d) the person's presence at the facility is for the purposes of providing essential care and support necessary for the resident's immediate physical wellbeing that optimises the care and support delivered by workers at the facility and cannot be provided by that person via electronic means; or
Limit: only 1 visitor at any one time.
Example: providing ongoing support, assistance or personal care to a resident with activities of daily living such as showering, dressing, or meals.

- (e) the person's presence at the facility is for the purposes of providing essential care and support necessary for the resident's immediate emotional and social wellbeing (including mental health supports) that optimises the care and support delivered by workers at the facility and cannot be provided by that person via electronic means; or

Limit: only 1 visitor at any one time.

Example: the person's physical presence is necessary to support individual behaviours of concern, such as for people living with dementia or who have a known or emerging serious mental illness.

- (f) the person's presence at the facility is for the purposes of providing interpreter or informal language support to enable the delivery of care by workers at the facility.

Limit: only 1 visitor at any one time.

- (g) the person's presence at the facility is for the purposes of learning to support the resident's care upon the resident's discharge; or

Limit: only 1 visitor, once per day, for a maximum of 1 hour.

Example: in preparation for providing in home care.

- (h) the person's presence at the facility is for the purposes of providing end of life support to a resident of the facility; or

Limit: maximum of 2 visitors at any one time.

- (i) the person's presence at the facility is in the person's capacity as a prospective resident of the facility; or

Limit: only 1 visitor at any one time.

- (j) the person's presence at the facility is for the purposes of accompanying a prospective resident.

Limit: only 1 visitor at any one time.

Note: for residents of disability residential services, support workers and carers are considered workers, not visitors, and there is no limit on the number or duration of such visits: see clause 6(1)(c).

- (3) Except in the situation referred to in subclause (2)(h), no more than 1 visitor may visit a resident at any one time.

8 Operator to take all reasonable steps

The operator of a care facility in Victoria must take all reasonable steps to ensure that a person does not enter or remain on the premises of the facility if the person is prohibited from doing so by clause 5.

9 Relationship with other Directions

Where the premises of a care facility are located within the premises of a hospital subject to the **Hospital Visitor Directions (No. 9)** these directions apply, to the exclusion of the Hospital Visitor Directions (No. 9), in relation to the premises of the care facility and to matters that relate to the care facility.

10 Definitions

For the purposes of these directions:

- (1) **alcohol and drug residential service** means any of the following:
- (a) a treatment centre within the meaning of the **Severe Substance Dependence Treatment Act 2010**;
 - (b) a residential treatment service (however described) that provides drug or alcohol withdrawal or rehabilitation services in a residential setting to people dependent on alcohol or other drugs;
 - (c) a service that provides supported accommodation to a person after the person has received residential treatment services of the kind referred to in paragraph (b);

- (2) **disability residential service** means a residential service within the meaning of the **Disability Act 2006** and to avoid doubt, includes the facility called the Intensive Residential Treatment Program of the Statewide Forensic Service;
- Note: the Intensive Residential Treatment Program of the Statewide Forensic Service is often referred to as 'DFATS'.*
- (3) **eligible SDA enrolled dwelling** means an SDA enrolled dwelling that is provided under an SDA residency agreement within the meaning of section 498B of the **Residential Tenancies Act 1997**;
- (4) **employee or contractor**, in relation to a care facility, means a person employed or engaged as a contractor by the operator of the facility, and includes a person who **provides labour hire services** to the operator of the facility;
- (5) **flexible care subsidy** has the same meaning as in the **Aged Care Act 1997** of the Commonwealth;
- (6) **homelessness residential service** means a service that is funded by government to provide a staffed residential service to people who are homeless or at risk of being homeless;
- (7) **nominated person** in relation to a resident has the same meaning as in the **Mental Health Act 2014**;
- (8) **operator** of a care facility means:
- (a) for an **alcohol and drug treatment facility** – the operator of the facility;
 - (b) for a **homelessness residential service** – the entity that receives government funding to provide the service;
 - (c) for a **residential aged care facility** – the operator of the facility;
 - (d) for a **disability residential service** – the **disability service provider** that operates the service;
 - (e) for an **eligible SDA enrolled dwelling** – the **disability service provider** or the **registered NDIS provider** that operates the service;
 - (f) for a **short-term accommodation and assistance dwelling** – the **registered NDIS provider** or the **disability service provider** that operates the service;
 - (g) for a **secure welfare service** – the Secretary to the Department of Health and Human Services;
 - (h) for a **supported residential service** – the **proprietor** of the supported residential service;
 - (i) for the **Thomas Embling Hospital** – the **Victorian Institute of Forensic Mental Health**;
- (9) **proprietor** of a supported residential service has the same meaning as in the **Supported Residential Services (Private Proprietors) Act 2010**;
- (10) **provides labour hire services** has the same meaning as in the **Labour Hire Licensing Act 2018**;
- (11) **registered NDIS provider** has the same meaning as in the **National Disability Insurance Scheme Act 2013** of the Commonwealth;
- (12) **resident** of a care facility includes a patient of the care facility;
- (13) **residential aged care facility** means a premises at which accommodation and personal care or nursing care or both are provided to a person in respect of whom a **residential care subsidy** or a **flexible care subsidy** is payable under the **Aged Care Act 1997** of the Commonwealth;
- (14) **residential care subsidy** has the same meaning as in the **Aged Care Act 1997** of the Commonwealth;

- (15) **secure welfare service** has the same meaning as in the **Children, Youth and Families Act 2005**;
- (16) **supported residential service** has the same meaning as in the **Supported Residential Services (Private Proprietors) Act 2010**;
- (17) **Thomas Embling Hospital** means the hospital of that name operated by the **Victorian Institute of Forensic Mental Health**;
- (18) the following expressions have the same meaning as they have in the **Disability Act 2006**:
 - (a) disability service provider;
 - (b) SDA enrolled dwelling;
 - (c) SDA provider;
 - (d) short-term accommodation and assistance dwelling;
 - (e) treatment plan;
- (19) **Victorian Institute of Forensic Mental Health** has the same meaning as in the **Mental Health Act 2014**.

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.

Dated 3 August 2020

DR FINN ROMANES
Public Health Commander,
as authorised to exercise emergency powers by the Chief Health Officer
under section 199(2)(a) of the PHW Act

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