

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

## New South Wales Border Crossing Permit Scheme Directions (No 2)

*Public Health and Wellbeing Act 2008 (Vic)*

Section 200

I, Adjunct Clinical Professor Brett Sutton, 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)(b) and (d) of the **Public Health and Wellbeing Act 2008 (Vic) (PHW Act)**:

### 1 Preamble

- (1) These directions replace the **New South Wales Border Crossing Permit Scheme Directions** and:
  - (a) prevent **prohibited persons** who have resided in, visited, been in, or travelled through a **hot zone** and/or are required to self-isolate or self-quarantine in the State of New South Wales since 11 December 2020 or in the 14 days prior to the date of entry, or attempted entry, into Victoria (whichever is later) from entering Victoria, unless they are a person who provides commercial freight services or have an exemption; and
  - (b) prevent prohibited persons who have resided in, visited, been in, or travelled through a **red zone** and/or are required to self-isolate or self-quarantine in the State of New South Wales since 11 December 2020 or in the 14 days prior to the date of entry, or attempted entry, into Victoria (whichever is later) from entering Victoria unless the person:
    - (i) the person ordinarily resides in Victoria and enters Victoria before 11:59:00pm on 21 December 2020 (subject to a period of self-quarantine of 14 days); or
    - (ii) provides commercial freight services; or
    - (iii) has an exemption; and
  - (c) continue to require **restricted persons** who have resided in, visited, been in, or travelled through:
    - (i) an **orange zone**; or
    - (ii) a **green zone**,in the State of New South Wales since 11 December 2020 or in the 14 days prior to the date of entry, or attempted entry, into Victoria (whichever is later) to carry a **border permit** when entering Victoria; and

- (d) clarify requirements for restricted persons who are **Cross Border Community Members** and have not resided in, visited, been in, or travelled through a hot zone, red zone or orange zone since 11 December 2020 or in the 14 days prior to the date of entry, or attempted entry, into Victoria (whichever is later); and
  - (e) clarify requirements for **diagnosed person** who has been medically assessed as non-infectious and cleared by a medical practitioner,  
in order to limit the spread of severe acute respiratory syndrome coronavirus 2 (**SARS-CoV-2**).
- (2) These directions must be read together with the **Directions currently in force**.

## 2 Citation

These directions may be referred to as the **New South Wales Border Crossing Permit Scheme Directions (No 2)**.

## 3 Commencement and revocation

- (1) The **New South Wales Border Crossing Permit Scheme Directions** are revoked at 11:59:00pm on 20 December 2020.
- (2) Any border permit issued under the **New South Wales Border Crossing Permit Scheme Directions** to a person who has visited, been in, or travelled through, an orange zone within the meaning of those directions is revoked at 11:59:00pm on 20 December 2020.
- (3) These directions commence at 11:59:00pm on 20 December 2020.

## 4 Restrictions on persons entering Victoria

*Persons who have resided in, visited, been in or travelled through a hot zone or a red zone and/or are required to self-isolate or self-quarantine in New South Wales*

- (1) Subject to subclause (2) and (3), a prohibited person must not enter Victoria unless the Chief Health Officer or Deputy Chief Health Officer has granted an exemption under clause 6.

*Persons who ordinarily reside in Victoria who have resided in, visited, been in or travelled through a red zone*

- (2) From 11:59:00pm on 20 December 2020 until 11:59:00pm on 21 December 2020, a prohibited person may only enter Victoria if:
  - (a) the person ordinarily resides in Victoria; and
  - (b) the person carries, and presents on request to an **authorised officer**, a Victoria Police member or a Protective Services Officer (or other person under such person's direction):
    - (i) a border permit for that person including:
      - (A) the person's full name; and
      - (B) the person's contact phone number; and

- (C) the full names of any person under the age of 18, or other dependants for whom the person is a parent, guardian or carer, who are travelling with the person; and
- (D) the address from which the person is departing when entering Victoria; and
- (E) the address where the person ordinarily resides in Victoria; and
- (F) the date of entry into Victoria; and
- (G) if applicable, any planned date of departure from Victoria; and
- (H) an attestation by that person stating that (as at the date of attestation) the person (and any person under the age of 18 or other dependant travelling with the person):
  1. has not resided in, visited, been in, or travelled through, a hot zone and/or required to self-isolate or self-quarantine in the State of New South Wales since 11 December 2020 or in the 14 days prior to the date of entry, or attempted entry, into Victoria (whichever is later); and
  2. is not a **diagnosed person** or someone who has been in close contact with a diagnosed person; and
  3. is not experiencing **SARS-CoV-2 Symptoms**; and
  4. the information in the border permit and attestation is true and correct; and
- (ii) photographic personal identification including the address at which the person ordinarily resides (unless the person is under the age of 18); and
- (c) the person is tested for SARS-CoV-2 within 24 hours after entering Victoria; and
- (d) the person self-quarantines at the premises at which they ordinarily reside or another premises that is suitable for the person to reside in for the purpose of self-quarantine for a period of 14 days after the date person last resided in, visited, was in or travelled through a red zone; and
- (e) the person complies with clauses 6(11) and (12), 7(1), (2) and (3) and 8 of the **Diagnosed Persons and Close Contacts Directions** as if the person was required to self-quarantine under clause 6 of the **Diagnosed Persons and Close Contacts Directions** and the 'period of self-quarantine' under the **Diagnosed Persons and Close Contacts Directions** is the period set out in paragraph (d); and

*Note: under the provisions referred to in paragraph (e), a person is required to notify the Department of the address of the premises at which the person is self-quarantining, as well of the name of any other person*

*residing there. During the period of self-quarantine the person must not leave the premises (subject to some exceptions) or permit non-residents to enter the premises (subject to some exceptions).*

- (f) the person travels immediately and directly to the premises at which they ordinarily reside or another premises that is suitable for the person to reside in for the purpose of self-quarantine,

unless the Chief Health Officer or Deputy Chief Health Officer has granted an exemption under clause 6.

*Note 1: subclause (2) applies to Cross Border Community Members who are prohibited persons and ordinarily reside in Victoria.*

*Note 2: a prohibited person is not permitted to enter Victoria after 11:59:00pm on 21 December 2020 unless an exemption is granted under clause 6.*

- (3) A prohibited person who has applied for a border permit under subclause (2) must not reside in, visit, be in or travel through, a hot zone and/or be required to self-isolate or self-quarantine in the State of New South Wales, between applying for the border permit and entering Victoria.

#### *Commercial freight services*

- (4) A person providing commercial freight services may only enter Victoria if:
- (a) the person is required to enter and be physically present in Victoria for the purpose of providing commercial freight services; and
  - (b) the person carries, and presents on request to an authorised officer, a Victoria Police member or a Protective Services Officer (or other person under such person's direction):
    - (i) a border permit for that person including:
      - (A) the person's full name; and
      - (B) the person's contact phone number; and
      - (C) the full names of any person under the age of 18, or other dependants for whom the person is a parent, guardian or carer, who are travelling with the person; and
      - (D) the address from which the person is departing when entering Victoria; and
      - (E) the address where the person ordinarily resides; and
      - (F) the date of entry into Victoria; and
      - (G) if applicable, any planned date of departure from Victoria; and
      - (H) an attestation by that person stating that (as at the date of attestation) the person (and any person under the age of 18 or other dependant travelling with the person):
        - 1. is not a diagnosed person or someone who has been in close contact with a diagnosed person; and
        - 2. is not experiencing **SARS-CoV-2 Symptoms**; and

3. the information in the border permit and attestation is true and correct; and
    - (ii) photographic personal identification including the address at which the person ordinarily resides (unless the person is under the age of 18); and
    - (c) the person is regularly tested for SARS-CoV-2 in accordance with the national Freight Movement Code for the Domestic Border Controls – Freight Movement Protocol; and
    - (d) the person only remains in Victoria for the period reasonably necessary to provide commercial freight services and minimises contact with other persons; and
    - (e) the person self-quarantines at the premises at which they ordinarily reside or another premises that is suitable for the person to reside in for the purpose of self-quarantine when not providing commercial freight services and only leaves that premises:
      - (i) to obtain takeaway food and drink; or
      - (ii) to access toilet and bathroom facilities; or
      - (iii) to obtain medical care or supplies; or
      - (iv) to get tested for SARS CoV-2; or
      - (v) in an emergency situation; or
      - (vi) if required to do so by law; and
- Note: the person's place of accommodation or a truck cabin may be a premises suitable for the person to reside in for the purpose of self-quarantine. .*
- (f) the person wears a **face covering** in all public places.

*People who have resided in, visited, been in or travelled through an orange or green zone*

- (5) A restricted person may enter Victoria if the person carries, and presents on request to an authorised officer, a Victoria Police member or a Protective Services Officer (or other person under such person's direction):
  - (a) a border permit for that person including:
    - (i) the person's full name; and
    - (ii) the person's contact phone number; and
    - (iii) the full names of any person under the age of 18, or other dependants for whom the person is a parent, guardian or carer, who are travelling with the person; and
    - (iv) the address from which the person is departing when entering Victoria; and
    - (v) the destination the person will be visiting while in Victoria; and
    - (vi) the date of entry into Victoria; and

- (vii) if applicable, the planned date of departure from Victoria; and
- (viii) an attestation by that person stating that (as at the date of attestation) the person (and any person under the age of 18 or other dependant travelling with the person):
  - (A) has not resided in, visited, been in, or travelled through, a hot zone or a red zone and/or required to self-isolate or self-quarantine in the State of New South Wales since 11 December 2020 or in the 14 days prior to the date of entry, or attempted entry, into Victoria (whichever is later); and
  - (B) has only resided in, visited, been in, or travelled through, an orange zone and/or green zone since 11 December 2020 or in the 14 days prior to the date of entry, or attempted entry, into Victoria (whichever is later); and
  - (C) is not a diagnosed person or someone who has been in close contact with a diagnosed person; and
  - (D) is not experiencing SARS-CoV-2 Symptoms; and
  - (E) the information in the border permit and attestation is true and correct; and
- (b) photographic personal identification including the address where the person ordinarily resides (unless the person is under the age of 18).

*Note: if a restricted person has resided in, visited, been in, or travelled through an orange zone since 11 December 2020 or in the 14 days prior to the date of entry, or attempted entry, into Victoria (whichever is later), they are strongly encouraged to be tested for SARS-CoV-2 as soon as possible upon entering Victoria and if they have symptoms, to self-quarantine at the premises at which they ordinarily reside or another premises that is a suitable location for self-quarantine until they receive test result stating that they have not been diagnosed with SARS-CoV-2. See [www.dhhs.vic.gov.au/taking-test-covid-19what-should-i-do-after-getting-tested](http://www.dhhs.vic.gov.au/taking-test-covid-19what-should-i-do-after-getting-tested).*

- (6) A restricted person who has applied for a border permit under subclause (5) must not reside in, visit, be in or travel through a hot zone or a red zone and/or be required to self-isolate or self-quarantine in the State of New South Wales, between applying for the border permit and entering Victoria.

*Cross Border Community Members who have resided in, visited, been in or travelled through a green zone only*

- (7) Despite subclause (5), a restricted person may enter Victoria without a border permit if the person:
  - (a) is a Cross Border Community Member; and
  - (b) has not resided in, visited, been in, or travelled through, a hot zone, red zone or orange zone and/or required to self-isolate or self-quarantine in the State of New South Wales since 11 December 2020 or in the 14 days prior to the date of entry, or attempted entry, into Victoria (whichever is later);

(c) carries, and presents on request to an authorised officer, a Victoria Police member or a Protective Services Officer (or other person under such person's direction):

(i) proof that they are a Cross Border Community Member (unless the person is under the age of 18); and

*Note: proof that a person is a Cross Border Community Member will include a driver's licence or other document issued by the State of New South Wales, Victoria or any **municipal district**, local government area or unincorporated local government area (not including Lord Howe Island) identified at [www.coronavirus.vic.gov.au/victorian-border-crossing-permit](http://www.coronavirus.vic.gov.au/victorian-border-crossing-permit), including the address where the person ordinarily resides, for example, a current rates notice.*

(ii) photographic personal identification including the address where the person ordinarily resides (unless the person is under the age of 18).

*Other reasons for a restricted person to enter Victoria without a border permit*

(8) Despite subclause (5), a restricted person may enter Victoria without a border permit:

(a) to provide or receive emergency medical care or emergency services; or

(b) to escape harm or the risk of harm, including harm relating to family violence or violence of another person; or

(c) if they are a **school** student travelling on a bus; or

(d) where the restricted person remains on the same premises where that premises is both in the State of New South Wales and Victoria.

(9) For the avoidance of doubt, whenever a restricted person or prohibited person is in Victoria, they are subject to the Directions currently in force.

## 5 Applications for a border permit

(1) A prohibited person or restricted person may apply for a border permit using a digital system provided by the **Service Victoria CEO** and other parts of the Victorian Government.

(2) An application for a border permit must contain all information reasonably required by the **Department** from time to time, for the purpose of protecting public health.

(3) The Service Victoria CEO:

(a) may deliver a border permit to a prohibited person if clause 4(2), (4) or (5) applies and the person makes an application under subclause (1) and the application complies with the requirements under subclause (2); and

- (b) may deliver a border permit to a restricted person where the person makes an application under subclause (1) and the application complies with the requirements under subclause (2); and
  - (c) must provide a copy of the border permit to the Department; and
  - (d) will provide any information contained in an application to the Department on behalf of the prohibited person or restricted person.
- (4) A border permit issued in accordance with:
- (a) clause 4(2) is only valid until 11:59:00pm on 21 December 2020; and
  - (b) clause 4(4) or (5) is only valid for 14 days from the date of entry into Victoria
- (5) A person must not give information, or make a statement, in an application for a border permit that is false or misleading in a material particular.

## **6 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) In circumstances where a prohibited person is seeking an exemption, before granting any exemption the Chief Health Officer or Deputy Chief Health Officer must consider:
- (a) if the prohibited person is:
    - (i) lawfully permitted to leave the State of New South Wales in accordance with the laws in force in that jurisdiction; and
    - (ii) seeking to enter Victoria for the purposes of:
      - (A) attending a funeral or end of life event; or
      - (B) providing or receiving emergency medical treatment; or
      - (C) escaping harm or the risk of harm, including harm relating to family violence or violence of another person; or
      - (D) returning to the person's ordinary place of residence for health, wellbeing, care or compassionate reasons; or
      - (E) an emergency relocation; and
  - (b) documentary evidence provided by the prohibited person of:
    - (i) the circumstances described in paragraph (a); or
    - (ii) test results or other medical information in relation to that person; or

- (iii) directions or permissions given to that person from the State of New South Wales not to self-isolate or self-quarantine,  
and any further documentary evidence requested by the Chief Health Officer or Deputy Chief Health Officer and provided by the prohibited person.
- (4) 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.
- (5) 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.

## 7 Definitions

In these directions:

- (1) **authorised officer** has the same meaning as in the PHW Act;
- (2) **border permit** means the written notice (digital or otherwise) provided under clause 5;
- (3) **cleared from self-isolation** has the meaning in the **Diagnosed Persons and Close Contacts Directions**;
- (4) **COVIDSafe Plan** means a COVIDSafe Plan described in clause 6(3) of the **Workplace Directions (No 13)**;
- (5) **Cross Border Community Member** means a person ordinarily residing in a **municipal district**, local government area or unincorporated local government area (not including Lord Howe Island) adjacent to or in close proximity to the border between the State of New South Wales and Victoria as detailed on the Department's website available at: [www.coronavirus.vic.gov.au/victorian-border-crossing-permit](http://www.coronavirus.vic.gov.au/victorian-border-crossing-permit);
- (6) **Department** means the Victorian Department of Health and Human Services;
- (7) **diagnosed person** means a person who at any time between midnight on 11 December 2020 and 11:59:00pm on 3 January 2021 has been informed that they have been diagnosed with SARS-CoV-2 (but does not include a person who has been medically assessed as non-infectious and cleared by a medical practitioner and/or **cleared from self-isolation**);
- (8) **Diagnosed Persons and Close Contacts Directions** means the **Diagnosed Persons and Close Contacts Directions (No 14)** as amended from time to time;
- (9) **Directions currently in force** has the same meaning as in the **Stay Safe Directions (Victoria)**;
- (10) **emergency powers** has the same meaning as in the PHW Act;
- (11) **face covering** has the meaning in the **Stay Safe Directions (Victoria)**;

- (12) **green zone** means any part of the State of New South Wales other than the **hot zone, red zone** or **orange zone**;
- (13) **hot zone** means any location that people have resided in, visited, been in or travelled through that has been assessed as very high risk for SARS-CoV-2 transmission in the State of New South Wales, as detailed on the Department's website available at [www.coronavirus.vic.gov.au/victorian-border-crossing-permit](http://www.coronavirus.vic.gov.au/victorian-border-crossing-permit), as amended from time to time by the Victorian Government;
- (14) **municipal district** has the same meaning as in the **Local Government Act 1989**;
- (15) **orange zone** means any location that people have resided in, visited, been in or travelled through that has been assessed as a medium risk for SARS-CoV-2 transmission in the State of New South Wales, as detailed on the **Department's** website available at: [www.coronavirus.vic.gov.au/victorian-border-crossing-permit](http://www.coronavirus.vic.gov.au/victorian-border-crossing-permit), as amended from time to time by the Victorian Government;
- (16) **prohibited person** means a **restricted person** who has resided in, visited, been in, or travelled through a **hot zone** or a **red zone** and/or is required to self-isolate or self-quarantine in the State of New South Wales since 11 December 2020 or in the 14 days prior to the entry, or attempted entry, into Victoria (whichever is later) but does not include:
- (a) a person who is domestic flight crew and resides in a red zone (but not the hot zone), provided that the person wears a **face covering** during each flight to and from Victoria and otherwise complies with all airline requirements and airline **COVIDSafe Plan** whilst in Victoria; or
  - (b) a person who is domestic flight crew and resides outside New South Wales, provided that the person wears a face covering during each flight to and from Victoria and otherwise complies with all airline requirements and airline COVIDSafe Plan whilst in New South Wales and Victoria; or
  - (c) a person travelling from a green zone or orange zone through a red zone to an airport in a red zone, provided that such person travels directly to the airport and does not leave the airport until their flight; or  
*Note: it is recommended that such a person wears a face covering during such travel.*
  - (d) a person arriving by aircraft at and transiting through an airport in a red zone, provided that such person does not leave the airport until their flight; or  
*Note: it is recommended that such a person wears a face covering during such travel.*
  - (e) a person whose ordinary place of residence is in Victoria travelling from hotel quarantine in New South Wales through a red zone to an airport in a red zone, provided that such person travels directly to the airport, does not leave the airport until their flight and wears a face covering during the flight to Victoria;

*Note: the Stay Safe Directions (Victoria) contain requirements for the wearing of a face covering in an airport terminal.*

- (17) **red zone** means any location that people have resided in, visited, been in or travelled through that has been assessed as high risk for SARS-CoV-2 transmission in the State of New South Wales, as detailed on the Department's website available at [www.coronavirus.vic.gov.au/victorian-border-crossing-permit](http://www.coronavirus.vic.gov.au/victorian-border-crossing-permit), as amended from time to time by the Victorian Government;
- (18) **restricted person** means a person who has resided in, visited, been in, or travelled through, the State of New South Wales since 11 December 2020 or in the 14 days prior to the date of entry, or attempted entry, into Victoria (whichever is later);
- (19) **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;
- (20) **school** means a registered school as defined in the **Education and Training Reform Act 2006**;
- (21) **Stay Safe Directions (Victoria)** means the **Stay Safe Directions (Victoria) (No 6)** as amended from time to time;
- (22) **Service Victoria CEO** has the same meaning as in the **Service Victoria Act 2018**.

## 8 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.

*Note: currently, 60 penalty units equals \$9,912.20 and 300 penalty units equals \$49,466.00.*

- (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.

*Note: currently, 60 penalty units equals \$9,912.20 and 300 penalty units equals \$49,466.00.*

- (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:

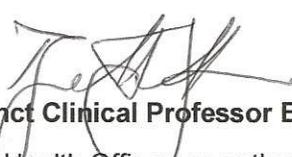
**Compliance with direction or other requirement**

- (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.

*Note: currently, 120 penalty units equals \$19,826.40 and 600 penalty units equals \$99,132.00.*

- (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) \$1,652 in the case of a natural person; or
  - (b) \$9,913 in the case of a body corporate.
- (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).

  
**Adjunct Clinical Professor Brett Sutton**

Chief Health Officer, as authorised to exercise emergency powers under sections 20A and 199(2)(a) of the PHW Act.

20 December 2020