

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

Open Premises Directions (No 3)

Public Health and Wellbeing Act 2008 (Vic)

Section 200

I, Adjunct Clinical Professor Brett Sutton, 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**):

PART 1 PRELIMINARY

1 Preamble

- (1) The purpose of these directions is to impose obligations upon:
 - (a) operators of certain **open premises** in the State of Victoria; and
 - (b) patrons that attend those premises,in relation to vaccination against COVID-19 and other requirements, in order to address the serious public health risk posed to Victoria by severe acute respiratory syndrome coronavirus 2 (**SARS-CoV-2**).
- (2) Parts 2, 3 and 4 govern open premises, which are specified in Schedule 1:
 - (a) Part 2 contains vaccination requirements;
 - (b) Part 3 contains additional requirements and exceptions;
 - (c) Part 4 contains further requirements and exceptions for specific open premises.
- (3) Part 5 contains definitions:
 - (a) key definitions are contained in clause 35;
 - (b) premises-specific definitions are contained in clause 36;
 - (c) other definitions are contained in clause 37;
- (4) These directions must be read together with the **Directions currently in force**.
- (5) These directions replace the **Open Premises Directions (No 2)**.

2 Citation

These directions may be referred to as the **Open Premises Directions (No 3)**.

3 Commencement and revocation

- (1) These directions commence at 6:00:00pm on 29 October 2021 and end at 11:59:00pm on 18 November 2021.
- (2) The **Open Premises Directions (No 2)** are revoked at 6:00:00pm on 29 October 2021.

PART 2 OPEN PREMISES — VACCINATION REQUIREMENTS

4 Open premises

The operator of an open premises must operate the premises in accordance with:

- (1) the obligations in this Part;
- (2) any additional obligations in Part 3; and
- (3) any premises-specific obligations in Part 4.

5 Provision of vaccination information

Operator obligations — maintenance of system

- (1) The operator of an open premises must maintain a system that requires a **patron** (except a patron under 16 years or age) that attends the premises either:
 - (a) on each occasion they attend, to show a person working at the premises **acceptable evidence** that they are either:
 - (i) **fully vaccinated**; or
 - (ii) an **excepted person**; or
 - (b) once prior to their first attendance after 6:00:00pm on 29 October 2021, if the patron is a **pre-registration patron** and they attend a **pre-registration premises**, to provide the operator with **acceptable evidence** that they are either:
 - (i) fully vaccinated; or
 - (ii) an excepted person.

*Note: an operator must require patrons to check-in to their premises under the **Workplace Directions**.*

- (2) The system maintained under subclause (1) must include:
 - (a) the placement, at each entrance to the premises that is accessible by patrons, a **worker**:
 - (i) who is designated as a **COVID Check-in Marshal**; and
 - (ii) who requests each patron attending the premises to either:
 - (A) do the things specified in subclause (1)(a); or
 - (B) confirm that the patron has completed the things specified in subclause (1)(b).

- (3) If an operator of a pre-registration premises maintains a system under subclause (1)(b), the operator must collect, record and hold **vaccination information** about the pre-registration patron.

Patron obligation — patrons must use system

- (4) A patron (except a patron under 16 years of age) who attends an open premises must comply with the requirements of the system maintained under subclause (1).
- (5) A patron who is a dependant of another patron is deemed to have complied with subclause (4) if the other patron, on behalf of the dependant, complies with the requirements of the system maintained under subclause (1).

6 No entry of patrons who are not fully vaccinated or excepted persons

Operator obligation — exclusion of persons

- (1) The operator of an open premises must take all reasonable steps to ensure that a patron who:
- (a) is not fully vaccinated; and
 - (b) is not an excepted person; or
 - (c) does not comply with the requirements of the system maintained by the operator under clause 5(1),

does not enter, or remain on, the premises.

Note: this obligation does not apply in relation to patrons who are fully vaccinated or excepted persons (which includes children under 16 years of age) and have provided acceptable evidence.

- (2) For the purposes of complying with subclause (1), the operator is authorised to use any information about a patron that it has been provided under the system maintained under clause 5.

Patron obligation — no entry unless fully vaccinated or an excepted person

- (3) A patron who is not:
- (a) fully vaccinated; or
 - (b) an excepted person;
- must not enter, or remain on, an open premises.

7 Worker requirements

Workers must be fully vaccinated

- (1) The operator of an open premises must not permit any person to work at the premises unless the person is:
- (a) fully vaccinated; or
 - (b) an excepted person; or

- (c) if the worker is at the open premises when no patrons are or may be present at the same time, **partially vaccinated**.
- (2) The operator must collect, record and hold vaccination information about each fully vaccinated person and each excepted person who works at the premises.
- (3) For the purposes of complying with subclause (1), an operator is authorised to use any information about a worker that it holds under subclause (2).

Information held under Mandatory Vaccination (Workers) Directions

- (4) If an operator is the employer of a fully vaccinated person or an excepted person who works at the premises:
 - (a) the operator is deemed to have complied with subclause (2) if they hold vaccination information about the person under the **COVID-19 Mandatory Vaccination (Workers) Directions** or the **COVID-19 Mandatory Vaccination (Specified Facilities) Directions**; and
 - (b) the operator is authorised to use that information for the purposes of complying with subclause (1).

Disclosure to employer or contractor

- (5) If the operator is obliged to comply with subclause 6(1) in relation to a worker and the operator is not:
 - (a) the employer of the worker; or
 - (b) the person who engaged the worker to work at the premises;the operator is authorised to disclose to the employer or person who engaged the worker that the operator is obliged to comply with subclause 6(1) in relation to the worker.

Exceptional circumstances

- (6) An operator of an open premises is not required to comply with this clause 7 if one or more of the exceptional circumstances specified in subclause (7) applies.
- (7) The exceptional circumstances are:
 - (a) a worker is required to perform work or duties that is or are necessary to provide for urgent specialist clinical or medical care due to an **emergency situation** or a **critical unforeseen circumstance**; or
 - (b) a worker is required to fill a vacancy to provide urgent care, to maintain quality of care and/or to continue essential operations due to an emergency situation or a critical unforeseen circumstance; or
 - Example 1: a large number of workers furloughed due to exposure at a Tier 1 site.*
 - (c) a worker is required to respond to an emergency; or
 - (d) a worker is required to perform urgent and essential work to protect the health and safety of workers or members of the public, or to protect assets and infrastructure.

- (8) If a circumstance specified in subclause (7) applies, the operator must take all reasonable steps to ensure that the worker does not work outside the worker's ordinary place of residence for any longer than the period of time necessary to respond to the exceptional circumstance.

8 Patron limits

- (1) The operator of an open premises must not permit the number of patrons:
- (a) in all **indoor spaces** combined—to exceed the number specified for the premises in Column 2 in Schedule 1; and
 - (b) in all **outdoor spaces** combined—to exceed the number specified for the premises in Column 3 in Schedule 1.

Note: "patron" is defined in clause 35(1) and does not include a person under 1 year of age.

- (2) Despite subclause (1), if Column 2 or 3 of Schedule 1 specifies that the patron limits for an open premises apply to each indoor space or each outdoor space, the operator of that premises must not permit the number of patrons to exceed the number specified in Schedule 1 for each space.

PART 3 OTHER REQUIREMENTS AND EXCEPTIONS FOR OPEN PREMISES

Division 1 — Other requirements

9 No dancefloors indoors

The operator of an open premises must not permit any indoor space at that premises to be used as a dancefloor.

10 Separate entrance at private residences

If an open premises is located at a private residence, the operator must have an entrance accessible to patrons that is separate to the entrance used by the residents of, or visitors to, the private residence.

11 COVID Check-in Marshal for check-in

The operator of an open premises must place a person designated as a COVID Check-in Marshal at each entrance to the premises that is accessible by patrons and who requests each patron to record their attendance at the premises in accordance with the **Workplace Directions**.

Division 2 — Exceptions

12 Access to bathrooms

The patron limits specified in clause 8 and the requirements in Part 4 do not prevent an operator from permitting a patron to access a bathroom.

13 Severe weather

The patron limits specified in clause 8 and the requirements in Part 4 do not prevent an operator from permitting a patron in an outdoor space at the open premises from entering an indoor space in the event of severe weather.

14 Exclusive use by one school

If an open premises is being operated only for the purpose of one school using the premises exclusively, the obligations in Part 2 and the patron limits in Part 4 do not apply.

15 Weddings

- (1) If an open premises is being operated for the purpose of conducting a wedding, the operator of the relevant open premises:
 - (a) instead of complying with the patron limits specified in Schedule 1 for the relevant open premises, must not permit the number of patrons:
 - (i) in all indoor spaces combined to exceed the **density quotient (4 sq metres)**; or
 - (ii) in all outdoor spaces combined to exceed the lesser of:
 - (A) the **density quotient (2 sq metres)**; and
 - (B) 500; and
 - (b) must only permit patrons to use at one time either:
 - (i) one or more indoor spaces; or
 - (ii) one or more outdoor spaces.
- (2) The obligations in Part 2 do not apply in relation to an open premises being operated for the purpose of conducting a wedding in an indoor space or outdoor space if the operator does not permit the number of patrons at the whole of the premises to exceed the lesser of:
 - (a) 30; and
 - (b) density quotient (4 sq metres).
- (3) If an open premises is being operated for the purpose of conducting a wedding, the following patrons are not to be counted for the purpose of any patron limits specified in clause 8 or this clause 15:
 - (a) the two persons being married;
 - (b) the authorised celebrant;
 - (c) a photographer.

16 Funerals

- (1) If an open premises is being operated for the purpose of conducting a funeral, the operator of the relevant open premises:

- (a) instead of complying with the patron limits specified in Schedule 1 for the relevant open premises, must not permit the number of patrons:
 - (i) in all indoor spaces combined to exceed the density quotient (4 sq metres); or
 - (ii) in all outdoor spaces combined to exceed the lesser of:
 - (A) the density quotient (2 sq metres); and
 - (B) 500; and
 - (b) must only permit patrons to use at one time either:
 - (i) one or more indoor spaces; or
 - (ii) one or more outdoor spaces.
- (2) The obligations in Part 2 do not apply in relation to an open premises being operated for the purpose of conducting a funeral in an indoor space or outdoor space if the operator does not permit the number of patrons at the whole of the premises to exceed the lesser of:
- (a) 30; and
 - (b) density quotient (4 sq metres).
- (3) If an open premises is being operated for the purpose of conducting a funeral, the minimum number of persons reasonably necessary to conduct the funeral are not to be counted for the purpose of the patron limits specified in clause 8 or this clause 16.
- (4) An operator of an open premises that is being operated for the purpose of conducting a funeral must ensure that food, drink, crockery, utensils, vessels and other equipment are not shared between patrons.

17 Senior Secondary examinations

If an open premises is being operated only for the purpose of conducting **Senior Secondary examinations**, the obligations in Part 2, clause 11 (COVID Check-in Marshal) and any patron limits in Part 4 do not apply.

18 Public Event Framework

- (1) If an open premises is being operated only for the purpose of conducting an **exempt public event**, the obligations in Part 2 and the patron limits in Part 4 do not apply.
- (2) The Chief Health Officer or Deputy Chief Health Officer may exempt one or more persons who are subject to a requirement under these directions to conduct one or more **eligible public events** (or class of eligible public events) from any requirement of the Directions currently in force if satisfied that the exemption is appropriate, having regard to:
 - (a) the need to protect public health; and
 - (b) the principles in sections 5 to 10 of the **PHW Act**, as appropriate.
- (3) An exemption:

- (a) must be given in writing; and
 - (b) must be published at www.coronavirus.vic.gov.au/public-events, as amended from time to time by the Victorian Government with the approval of the Chief Health Officer or Deputy Chief Health Officer; and
 - (c) must specify each requirement in the Directions currently in force to which, subject to subclause (d), an exemption is granted; and
 - (d) may impose conditions on an exemption.
- (4) An exemption does not prevent:
- (a) the Chief Health Officer or Deputy Chief Health Officer exercising any power the Chief Health Officer or Deputy Chief Health Officer is authorised to exercise under the **PHW Act**; or
 - (b) an **Authorised Officer** from exercising any power the Authorised Officer is authorised to exercise under the **PHW Act**, including ensuring compliance with:
 - (i) the extent of an exemption (including any conditions on an exemption); or
 - (ii) the requirements of all other Directions currently in force.

Transitional provisions

- (5) Any exemption granted for an exempt public event under any **revoked Restricted Activity Directions** continues to have effect.
- (6) Any application for an exemption for an eligible public event made under any revoked Restricted Activity Directions continues to have effect.

Note: a person who has made an application for an exemption under previous directions will be contacted to confirm whether or not the application for exemption is still required.

19 Vaccinated Economy Trials

- (1) A person who owns, controls or operates an **exempt premises** is not required to comply with the requirements of these directions and the Directions currently in force in respect of that exempt premises to the extent specified in the exemption and subject to any conditions of the exemption.
- (2) The Chief Health Officer or Deputy Chief Health Officer may exempt one or more persons who are subject to a requirement under these directions to operate one or more **eligible premises** (or class of eligible premises) from any requirement of the Directions currently in force if satisfied that the exemption is appropriate, having regard to:
 - (a) the need to protect public health; and
 - (b) the principles in sections 5 to 10 of the **PHW Act**, as appropriate.
- (3) An exemption:
 - (a) must be given in writing; and

- (b) must be published at www.coronavirus.vic.gov.au/vaccinated-economy-trials, as amended from time to time by the Victorian Government with the approval of the Chief Health Officer or Deputy Chief Health Officer; and
 - (c) must specify each requirement in the Directions currently in force to which, subject to subclause (d), an exemption is granted; and
 - (d) may impose conditions on an exemption.
- (4) An exemption does not prevent:
- (a) the Chief Health Officer or Deputy Chief Health Officer exercising any power the Chief Health Officer or Deputy Chief Health Officer is authorised to exercise under the **PHW Act**; or
 - (b) an Authorised Officer from exercising any power the Authorised Officer is authorised to exercise under the **PHW Act**, including ensuring compliance with:
 - (i) the extent of an exemption (including any conditions on an exemption); or
 - (ii) the requirements of all other Directions currently in force.

Transitional provisions

- (5) Any exemption granted for an exempt premises under any revoked Restricted Activity Directions continues to have effect.
- (6) Any application for an exemption for an eligible premises made under any revoked Restricted Activity Directions continues to have effect.

Note: a person who has made an application for an exemption under previous directions will be contacted to confirm whether or not the application for exemption is still required.

20 Emergency use and operations

Nothing in these directions is intended to prevent or otherwise affect the operation of a premises where such use or operation is for emergency refuge, shelter or relief purposes in accordance with the emergency management arrangements under the **Emergency Management Act 2013**.

PART 4 ADDITIONAL REQUIREMENTS AND EXCEPTIONS FOR SPECIFIC PREMISES

21 Accommodation premises

- (1) The obligations in Part 2 and clause 11 (COVID Check-in Marshal) do not apply to an **accommodation premises**.
- (2) An operator of an accommodation premises may operate that premises for the purpose of providing accommodation only if:
 - (a) the operator does not permit the number of patrons in any:

- (i) communal indoor space to exceed the density quotient (4 sq metres); or
 - (ii) communal outdoor space to exceed the density quotient (2 sq metres); and
- (b) patrons under different bookings do not share any bedrooms; and
 - (c) all surfaces in the premises that are used exclusively by a particular group, including a hotel room or cabin, are cleaned between each booking; and
 - (d) the operator operates any **food and drink premises** within the accommodation premises in accordance with the requirements of these directions applicable to a food and drink premises; and
 - (e) the operator operates any **entertainment and function premises** within the accommodation premises in accordance with the requirements of these directions applicable to an entertainment and function premises; and
 - (f) the operator takes reasonable steps to ensure that each non-communal indoor or outdoor space is used by patrons in accordance with the requirements that apply in relation to private gatherings as specified in the **Stay Safe Directions (Victoria)**.

Exception for school use

- (3) Subclause (2) does not apply if an accommodation premises is being operated only for the purpose of one or more schools using the premises exclusively.

22 Adult education or higher education premises

- (1) Clauses 8 (Patron limits) and 11 (COVID Check-in Marshal) do not apply to an **adult education or higher education premises**.
- (2) The obligations in Part 2 do not apply to the operator of an adult education or higher education premises in relation to patrons and workers attending the premises for the purpose of receiving or providing **higher education services**, that:
 - (a) cannot be conducted remotely, including attending assessments and classes; or
 - (b) involve secondary school subjects.

23 Community premises

Exception for contactless collection or delivery

- (1) The obligations in Part 2 and clause 11 (COVID Check-in Marshal) do not apply in relation to a **community premises** if the premises is operated only for the purposes of contactless collection or delivery of pre-ordered goods.

Example: a library is permitted to operate for the purpose of a 'click and collect' service to facilitate the loaning of and/or returning of books, toys and other similar goods without complying with the requirements in Part 2.

Exception for essential public support services

- (2) If a community premises is being operated for the purpose of providing essential public support services (including essential public support group services) in an indoor space or an outdoor space, the obligations in Part 2 do not apply in relation to that indoor space or outdoor space if:
- (a) in relation to essential public support group services, the operator does not permit the number of patrons in the space to exceed the lesser of:
 - (i) density quotient (4 sq metres); and
 - (ii) 30; and
 - (b) in relation to other essential public support services, the operator only permits the minimum number of persons required to conduct and/or facilitate the essential public support service to access the indoor space or outdoor space.

Examples: a food bank or a service for homeless persons (including the provision of food or drink).

Note 1: support groups do not fall within this exception and the operator must comply with applicable patron limits.

Note 2: only patrons receiving essential public support services and those conducting it can be present.

Exception for use by mandatory vaccination workers

- (3) The obligations in Part 2 do not apply in relation to **mandatory vaccination workers** attending a community premises to perform work or participate in essential training in an indoor space or outdoor space if:
- (a) the community premises is not the mandatory vaccination worker's usual place of work; and
 - (b) the operator only permits the minimum number of persons necessary to access the indoor space or outdoor space for that purpose.

Exception for playgrounds, skateparks and outdoor communal exercise equipment

- (4) If the community premises is a premises that has:
- (a) a playground; or
 - (b) a skatepark in an outdoor space; or
 - (c) outdoor communal exercise equipment,
- the obligations in Part 2 and clause 11 (COVID Check-in Marshal) do not apply to those parts of the premises.

24 Creative arts premises

Requirement to clean equipment

- (1) The operator of a **creative arts premises** must ensure that any equipment used in an activity is cleaned between users.

25 Drive-in cinemas

- (1) The obligations in Part 2 do not apply to a drive-in cinema.
- (2) An operator of a drive-in cinema may only operate the premises if:
 - (a) the drive-in cinema is in an outdoor space accessed by vehicles; and
 - (b) the operator operates any food and drink premises within the premises in accordance with the requirements of these directions applicable to a food and drink premises; andthe operator does not permit patrons to be seated outside of their vehicles.

26 Entertainment and function premises

Casino, nightclubs and karaoke premises – additional requirements

- (1) An operator of a:
 - (a) casino—may only operate the premises if the operator:
 - (i) ensures each **gaming machine** is either spaced at least 1.5 metres apart or every second gaming machine is closed; and
 - (ii) takes all reasonable steps to ensure that a patron remains seated at all times in indoor spaces except when the patron is:
 - (A) entering or leaving the premises;
 - (B) making an order; or
 - (C) accessing a bathroom; and
 - (b) **nightclub** or karaoke premises—may only operate the premises as a food and drink premises.
- (2) An operator referred to in subclause (1) must operate the premises in accordance with the requirements of these directions applicable to a food and drink premises or an accommodation premises.

Exception for broadcasting

- (3) The obligations in Part 2 do not apply in relation to an entertainment and function premises, if the operator:
 - (a) only operates the entertainment and function premises for the purposes of broadcasting a performance;
 - (b) only permits the minimum number of persons required to conduct and broadcast the performance to be present at the premises; and
 - (c) does not permit the number of persons in an indoor space or an outdoor space to exceed 5.

27 Food and drink premises

Seated patrons indoors

- (1) The operator of a food and drink premises must take all reasonable steps to ensure that a patron in any indoor space remains seated except when the patron is:
 - (a) entering or leaving the indoor space;
 - (b) making an order; or
 - (c) accessing a bathroom.

Exception for food courts

- (2) The obligations in Part 2 and clause 11 (COVID Check-in Marshal) do not apply to a food and drink premises if it is part of a **food court**.
- (3) An operator of a food court must not permit the number of patrons in the whole of the food court to exceed the density quotient (4 sq metres).

Exception for take-away only

- (4) If a food and drink premises is being operated only for the purposes of providing take-away goods or delivery of pre-ordered goods, the obligations in Part 2, clause 11 (COVID Check-in Marshal) and subclause (1) do not apply.
- (5) Patrons who attend a food and drink premises only to purchase or collect take-away or pre-ordered goods do not count for the purposes of the patron limits specified in Schedule 1.

Exception for take-away and dine-in service

- (6) If a food and drink premises is being operated for the purposes of both:
 - (a) providing take-away goods or delivery of pre-ordered goods; and
 - (b) seated indoor service in accordance with subclause (1) or outdoor service,

the obligations in Part 2 and subclause (1) do not apply in relation to a patron who attends only to collect take-away goods.

Note: a food and drink premises can operate a take-away and a seated service at the same time. The obligations in Part 2 do not apply in relation to patrons that are purchasing take-away goods or delivery of pre-ordered goods but does apply in relation to patrons who attend the premises for a seated service and to staff at the premises.

- (7) Patrons who attend a food and drink premises only to purchase or collect take-away or pre-ordered goods do not count for the purposes of the patron limits specified in Schedule 1.

28 Funeral parlours and crematoriums

Lower patron limits for unvaccinated operations

The obligations in Part 2 and clause 11 (COVID Check-in Marshal) do not apply in relation to a funeral parlour or crematorium, if the operator of the premises:

- (1) does not permit the number of patrons in an indoor space or outdoor to exceed the density quotient (4 sq metres); and
- (2) does not permit the total number of patrons at the whole of the premises at any time to exceed the lesser of:
 - (a) the density quotient (4 sq metres); or
 - (b) 30.

29 Gaming machine premises

Spacing of gaming machines

- (1) The operator of a **gaming machine premises** must ensure that each gaming machine is either spaced at least 1.5 metres apart or every second gaming machine is closed.

Seated service only

- (2) The operator of a gaming machine premises must take all reasonable steps to ensure that a patron remains seated at all times in indoor spaces where there are gaming machines except when the patron is:
 - (a) entering or leaving the premises;
 - (b) making an order; or
 - (c) accessing a bathroom.

30 Physical recreation premises

Shared equipment

- (1) The operator of a **physical recreation premises** must ensure that any shared equipment is cleaned between users.

Exception for community sport

- (2) The obligations in Part 2 do not apply in relation to any indoor space or outdoor space in a physical recreation premises if:
 - (a) that space is being operated only for the purpose of conducting a community sport activity; and
 - (b) the operator ensures that any spectators of the community sport activity comply with the relevant limits on public gatherings in accordance with the **Stay Safe Directions (Victoria)**; and
 - (c) the operator otherwise only permits the participants and the minimum number of persons required to conduct the community sport activity to attend that indoor space or outdoor space at the premises.

Exception for professional or high performance sport

- (3) The obligations in Part 2 do not apply to an operator of a physical recreation premises if:
- (a) the physical recreation premises is used exclusively for training by **professional or high-performance sports persons**; and
 - (b) the operator does not permit any person to enter or remain at the premises unless the person is necessary for the conduct of the activity being undertaken by the professional or high-performance sports persons.

Exception for broadcasting

- (4) The obligations in Part 2 do not apply in relation to a physical recreation premises if the operator:
- (a) uses the premises only for the purpose of broadcasting an online class from the physical recreation premises; and
 - (b) does not permit the total number of persons at the premises for the purpose of broadcasting the online class to exceed 5.

Exception for unstaffed gymnasiums and fitness centres

- (5) Clause 11 (COVID Check-in Marshal) does not apply to unstaffed gymnasiums or fitness centres.

Exception for use by mandatory vaccination workers

- (6) The obligations in Part 2 do not apply in relation to mandatory vaccination workers attending a physical recreation premises to perform work or participate in essential training in an indoor space or outdoor space if:
- (a) the physical recreation premises is not the mandatory vaccination worker's usual place of work; and
 - (b) the operator only permits the minimum number of persons necessary to access the indoor space or outdoor space for that purpose.

Exception for hydrotherapy services

- (7) The obligations in Part 2 do not apply in relation to patrons that attend a swimming pool or a **hydrotherapy pool** at a physical recreation premises for the purpose of obtaining hydrotherapy services (**hydrotherapy patrons**) if the operator complies with the requirements in subclause (8).
- (8) The requirements are that the operator:
- (a) ensures that each hydrotherapy patron accessing hydrotherapy services is accompanied by:
 - (i) a health worker; or
 - (ii) a carer, parent or guardian (if required); and
 - (b) does not permit the hydrotherapy patrons to participate in group hydrotherapy services; and

- (c) does not permit the number of hydrotherapy patrons at any one time to exceed:
 - (i) 10 in any pool; and
- (d) takes all reasonable steps to implement relevant recommendations by the Victorian Government to manage public health risks arising out of the operation of the premises.

31 Places of worship

Use of indoor space or outdoor space

- (1) The operator of a place of worship may only permit patrons to use for a primary purpose, at any one time, either:
 - (a) one or more indoor spaces; or
 - (b) one or more outdoor spaces.

Note: operators are not permitted to operate for a primary purpose outdoor spaces at the same time as indoor spaces and vice versa. Patrons that are using the indoor space for a primary purpose may use the outdoor space provided that the indoor patron limit is complied with for the whole venue at all times.

No shared equipment

- (2) The operator of a place of worship must not permit food, drink, crockery, utensils, vessels or other equipment to be shared between patrons.

Exception for broadcasting

- (3) The obligations in Part 2 do not apply in relation to a place of worship, if the operator of the place of worship:
 - (a) only operates the place of worship for the purposes of broadcasting (live or otherwise) a religious ceremony via electronic means; and
 - (b) only permits the minimum number of persons required to conduct and broadcast the religious ceremony to be present at the premises; and
 - (c) does not permit the number of persons in an indoor space or an outdoor space to exceed 5.

Lower patron limits for unvaccinated operations

- (4) The obligations in Part 2 do not apply in relation to a place of worship if the operator of the place of worship does not permit the number of patrons in an indoor space or an outdoor space to exceed the lesser of:
 - (a) the density quotient (4 sq metres); or
 - (b) 30.

Exception for small places of worship

- (5) Clause 8 (Patron limits) does not apply to a place of worship with a total area of all spaces accessible to members of the public of less than 100 square

metres, if the operator does not permit the number of patrons in the whole of the premises to exceed 25.

32 Real estate

Inspections

- (1) The obligations in Part 2 do not apply in relation to an inspection of a real estate premises if:
 - (a) the inspection by patrons is arranged by private appointment; and
 - (b) the patrons who attend the inspection are from a single household and the estate agent does not enter the premises during the inspection.

33 Retail betting premises

- (1) The obligations in Part 2 and clause 11 (COVID Check-in Marshal) do not apply to a **retail betting premises**.

Patron limits

- (2) The operator of a retail betting premises must not permit the number of patrons any indoor space or outdoor space to exceed to the density quotient (4 sq metres).
- (3) If a retail betting premises is within a larger premises that is subject to patron limits under these directions, the number of patrons within the retail betting premises are to be counted for the purposes of any patron limits that apply to the larger premises.

34 Tours and transport

No shared equipment

- (1) An operator of a premises used for **tourism services** must ensure:
 - (a) any shared equipment used is cleaned between users and is not shared between patrons in a tour group; and
 - (b) they are conducted by the minimum number of persons reasonably necessary to conduct the tourism services.

Exception — tour transport

- (2) Clause 8 (Patron limits) does not apply to an operator of a premises used for **tourism services** if the tourism services are provided in:
 - (a) a vehicle or aircraft; or
 - (b) a cruise ship, if the operator does not permit the total number of patrons on the vessel to exceed 99.

PART 5 DEFINITIONS

35 Key definitions

Patrons and workers

(1) For the purpose of these directions:

(a) **excluded worker** means:

- (i) a **Commonwealth employee**;
- (ii) a **judge** or **judicial registrar**;
- (iii) a person who works in connection with proceedings in a **court**, where that work cannot be done from the person's ordinary place of residence;
- (iv) a person who is a member of the staff of Court Services Victoria within the meaning of the **Court Services Victoria Act 2014**;
- (v) a person employed or engaged by the Chief Executive Officer of the Victorian Civil and Administrative Tribunal;
- (vi) a member of State Parliament;
- (vii) the Clerk of the Legislative Assembly;
- (viii) the Clerk of the Legislative Council;
- (ix) an electorate officer within the meaning of the **Parliamentary Administration Act 2004**;
- (x) a parliamentary officer within the meaning of the **Parliamentary Administration Act 2004**;
- (xi) a person who works at or in connection with a **place of worship** and:
 - (A) conducts services of public worship and acknowledgments of faith;
 - (B) performs marriages, funerals and special memorial services according to tradition and ecclesiastical and civil law;
- (xii) visits members of the community in their homes, hospitals and other institutions to provide advice and religious comfort for the purpose of end of life faith reasons;
- (xiii) a person identified in Article 1 of the Vienna Convention on Diplomatic Relations, as set out in the Schedule to the **Diplomatic Privileges and Immunities Act 1967** of the Commonwealth;
- (xiv) a person identified in Article 1 of the Vienna Convention on Consular Relations, as set out in the Schedule to the *Consular Privileges and Immunities Act 1972* of the Commonwealth;
- (xv) the Governor and the Lieutenant Governor;

- (b) **patron** means any person who attends a **premises**, except:
 - (i) a person under 1 year of age;
 - (ii) a **worker**;
 - (iii) a person who attends the premises in connection with an emergency;
- (c) **pre-registration patron** means:
 - (i) in relation to an **adult education or higher education premises**, a **patron** that is a student undertaking studies in a regular class or lecture room at the premises;
 - (ii) in relation to a **place of worship**, a patron that is prohibited for religious reasons from complying with the obligation to provide **acceptable evidence** that they are **fully vaccinated** or an **excepted person** to the operator on each occasion that they attend the place of worship; or
 - (iii) in relation to an unstaffed gymnasium or fitness centre, any **patron**;
- (d) **worker** means any person engaged or employed by the operator of an **open premises** to work at the **open premises** but does not include an **excluded worker**.

Types of premises

- (2) For the purpose of these directions:
 - (a) **open premises** means a premises specified in Column 1 of Schedule 1;
 - (b) **pre-registration premises** means:
 - (i) an **adult education or higher education premises**;
 - (ii) a **place of worship** to the extent, and only during the periods of time during which, that place of worship conducts religious ceremonies; or
 - (iii) an unstaffed gymnasium or fitness centre;
 - (c) **specified facility** has the same meaning as in the **COVID-19 Mandatory Vaccination (Specified Facilities) Directions**;
 - (d) **work premises** means a **premises** on which work is undertaken, including any vehicle whilst being used for work purposes, but excludes a person's ordinary place of residence.

Indoor and outdoor spaces

- (3) For the purpose of these directions:
 - (a) **communal or shared space** means an **indoor space** or an **outdoor space** that may be shared or accessed by more than one distinct group of patrons;

- (b) **density quotient (2 sq metres)** in relation to an **indoor space** or an **outdoor space** that is accessible to **patrons** is the number calculated by dividing the total area of the space (measured in square metres) by 2, rounded down to the nearest whole number;
- (c) **density quotient (4 sq metres)** in relation to an **indoor space** or an **outdoor space** that is accessible to **patrons** is the number calculated by dividing the total area of the space (measured in square metres) by 4, rounded down to the nearest whole number;
- (d) **discrete outdoor space** means an **outdoor space** (whether a seated space, non-seated space or a combination of seated and non-seated) where crowding or congregation of people may occur and where either:
 - (i) people are attending to participate in a shared purpose or activity; or
Example: an area for participating in a competition.
 - (ii) people are attending as the audience of the same performance, activity or entertainment;
Example: an area where an audience views a performance on an outdoor stage or watches an outdoor cinema screen.
- (e) **indoor space** means an area, room or **premises** that is or are substantially enclosed by a roof and walls that are either floor to ceiling high or are at least 2.1 metres high, regardless of whether the roof or walls or any part of them are:
 - (i) permanent or temporary;
 - (ii) open or closed;
- (f) **non-seated indoor space** means an indoor space that is not a seated indoor space;
- (g) **non-seated outdoor space** means an **outdoor space** that is not a **seated outdoor space**;
- (h) **outdoor space** means an area, room or **premises** that is not an **indoor space**;
- (i) **seated indoor space** means an **indoor space** with fixed seating;
- (j) **seated outdoor space** means an **outdoor space** with fixed seating.

Vaccination status

- (4) A person's **vaccination status** is one of the following:
 - (a) **fully vaccinated**;
 - (b) **partially vaccinated**; or
 - (c) **excepted person**.
- (5) A person is **fully vaccinated** if the person has received two doses of a **COVID-19 vaccine**.

- (6) A person is **partially vaccinated** if the person has received one dose of a COVID-19 vaccine and is not an **excepted person**.
- (7) A person is an **excepted person** if:
- (a) the person holds **acceptable certification** from a **medical practitioner** that the person is unable to receive a dose, or a further dose, of a **COVID-19 vaccine** due to:
 - (i) a **medical contraindication**; or
 - (ii) an acute medical illness (including where the person has been diagnosed with SARS-CoV-2); or
 - (b) the person is under 16 years of age.
- (8) An **acceptable certification** for the purpose of subclause (7):
- (a) for the period ending 6:00:00pm on 12 November 2021—
 - (i) a certificate issued by the person's medical practitioner that states that the person is unable to receive a dose, or a further dose, of a COVID-19 vaccine for one or more of the reasons in subclause (7); or
 - (ii) an Australian Immunisation Register immunisation medical exemption form that:
 - (A) is completed and signed by the person's medical practitioner;
 - (B) states that the person is unable to receive a dose, or a further dose, of a COVID-19 vaccine for one or more of the reasons in subclause (7); and
 - (b) for the period commencing 6:00:00pm on 12 November 2021 and ending 11:59:00pm on 18 November 2021—an Australian Immunisation Register immunisation medical exemption form that:
 - (i) is completed and signed by the person's medical practitioner;
 - (ii) states that the person is unable to receive a dose, or a further dose, of a COVID-19 vaccine for one or more of the reasons in subclause (7).
- (9) An acceptable certification for the purpose of subclause (8) is effective until the earlier of:
- (a) the date specified by the medical practitioner; or
 - (b) the date 6 months from the date the certification was given by the medical practitioner.

Vaccination information and acceptable evidence

- (10) For the purposes of these directions:
- (a) **acceptable evidence** means:
 - (i) in relation to a person who is **fully vaccinated** and ordinarily resides in Australia:

- (A) successful completion of a Service Victoria QR check-in that includes confirmation that the person is fully vaccinated displayed through the Service Victoria App; or
 - (B) a COVID-19 digital certificate displayed through the Medicare App, the Service Victoria App or equivalent smartphone wallet; or
 - (C) a printed version of the COVID-19 digital certificate or immunisation history statement issued by the vaccination provider, a **medical practitioner** or the Australian Immunisation Register, but does not include a copy of the COVID-19 digital certificate that is printed by the person;
 - (D) in relation to an **excepted person**, an **acceptable certification** from a **medical practitioner** that the person is unable to receive a dose, or a further dose, of a **COVID-19 vaccine** due to:
 - 1. a **medical contraindication**; or
 - 2. an acute medical illness (including where the person has been diagnosed with SARS-CoV-2); or
- (ii) in relation to a person who is **fully vaccinated** and ordinarily resides outside Australia:
- (A) a copy of the evidence that has been sighted by the Commonwealth Government as proof of vaccination for the purposes of entry to Australia consisting of either the Australian Traveller Declaration or the COVID-19 Vaccination and Testing Declaration for travel to Australia; and
 - (B) a copy of a paper or digital certificate issued by an overseas government authority or an accredited overseas government vaccination provider that shows the person is fully vaccinated with a vaccine approved or recognised by the Therapeutic Goods Administration, is written in English or accompanied by a certified translation, and contains:
 - 1. the person's name as it appears in their passport;
 - 2. the person's date of birth or passport number;
 - 3. the vaccine brand name, and
 - 4. the date of each dose or the date on which a full course of immunisation was completed; or
 - (C) an Australian International COVID-19 Vaccination Certificate; and
- (b) **vaccination information** is information about a person's **vaccination status** and includes information that is derived from a record of information that was made under, or in accordance with, the **Australian Immunisation Register Act 2015** of the Commonwealth.

Note: vaccination information may be recorded in a variety of documents, a certificate of immunisation or an immunisation history statement obtained from the Australian Immunisation Register. For overseas travellers, it may be recorded in an Australian International COVID-19 Vaccination Certificate or vaccination certificates issued by an overseas government authority, accompanied by the Australian Traveller Declaration or COVID-19 Vaccination and Testing Declaration for travel to Australia.

Public events

(11) For the purpose of these directions:

(a) **eligible public event** means an organised public gathering for a common purpose on a for profit or not-for-profit basis which is:

(i) an event (or a series of events):

(A) conducted on a one-off or periodic basis; and

(B) open to members of the public; and

(C) which may be subject to specific licences, approvals or permits; and

Note: the person must continue to apply for and comply with all required licences, approvals and permits.

(D) publicly announced or advertised; and

(E) which may be in a **premises**, venue, **indoor space** or **outdoor space** where such an event (or a series of events) forms part of the routine operations, use, activities or services of the premises, venue, indoor space or outdoor space; or

(ii) an event (or series of events) deemed by the Victorian Government to be a State-critical public event (or a series of events),

Examples: an exhibition, sport event, festival, fair, parade, performance or trade show.

but does not mean:

(iii) an ad hoc public gathering in a public place; or

(iv) an ad hoc or routine public gathering in a premises, venue, indoor space or outdoor space which forms part of the ad hoc or routine operations, use, activities or services of the premises, venue, indoor space or outdoor space; or

(v) a private gathering; or

(vi) a wedding, funeral or end of life activity; or

(vii) a routine religious gathering or ceremony,

to which these directions and the **Stay Safe Directions (Victoria)** otherwise continue to apply; and

- (b) **exempt public event** means an eligible public event which, subject to the process described in the Public Event Framework, the Chief Health Officer or Deputy Chief Health Officer has exempted from a requirement in the Directions currently in force in accordance with clause 18 or the equivalent subclause in any **revoked Restricted Activity Directions**; and
- (c) **Public Event Framework** means the Public Event Framework available at www.coronavirus.vic.gov.au/public-events, as amended from time to time by the Victorian Government with the approval of the Chief Health Officer or Deputy Chief Health Officer.

Vaccinated Economy Trials

(12) For the purpose of these directions:

- (a) **eligible premises** means a business or premises approved by the Chief Health Officer as being eligible to participate in the Vaccinated Economy Trial; and
- (b) **exempt premises** means an eligible premises which, subject to the process described in the Vaccinated Economy Trial Framework, the Chief Health Officer or Deputy Chief Health Officer has exempted from a requirement in the Directions currently in force in accordance with clause 19 or the equivalent subclause in any **revoked Restricted Activity Directions**.

36 Premises-specific definitions

Accommodation premises

(1) For the purposes of these directions:

- (a) **accommodation premises** means any of the following:
 - (i) a camping ground;
 - (ii) a caravan park;
 - (iii) a hotel;
 - (iv) a hostel;
 - (v) a bed and breakfast;
 - (vi) a private holiday rental facility, including Airbnbs;
 - (vii) a motel;
 - (viii) a serviced apartment; or
 - (ix) a **licensed premises** to the extent that it is operated as a **premises** specified in paragraphs (i) to (viii).

Adult education or higher education premises

(2) For the purposes of these directions:

- (a) **adult education or higher education premises** means a **premises** that operates for the purpose of providing **higher education services**; and
- (b) **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.

Community premises

- (3) For the purposes of these directions:
 - (a) **community premises** means any of the following, whether operated on a for profit or not-for-profit basis:
 - (i) a community centre or community hall;
 - (ii) a public library (including a toy library, but not the **State Library**);
 - (iii) a youth centre;
 - (iv) a playground;
 - (v) a skatepark in an outdoor space; or
 - (vi) a **premises** that has outdoor communal exercise equipment, but does not include:
 - (vii) a **creative arts premises**;
 - (viii) a **physical recreation premises**; or
 - (ix) a premises that has a swimming pool, **hydrotherapy pool**, spa, sauna, steam room or **spring**.

Creative arts premises

- (4) For the purposes of these directions:
 - (a) **creative arts premises** means any of the following, whether operated on a for profit or not-for-profit basis:
 - (i) an art studio;
 - (ii) a ceramics studio;
 - (iii) a music room or studio;
 - (iv) a rehearsal room or studio;
 - (v) any other **premises** that is used for creative art, but does not include:
 - (vi) a **physical recreation premises**;
 - (vii) a **community premises**; or
 - (viii) a **place of worship**.

Entertainment and function premises

- (5) For the purposes of these directions:
- (a) **animal premises** means any of the following:
 - (i) a **zoological park**;
 - (ii) a wildlife centre;
 - (iii) a petting zoo;
 - (iv) an aquarium;
 - (v) an animal farm that is not being operated for the purpose of producing food; and
 - (b) **entertainment and function premises** means of the following, whether operated on a for profit or not-for-profit basis:
 - (i) a theatre;
 - (ii) a cinema;
 - (iii) a music hall, concert hall or auditorium;
 - (iv) a gallery or a museum;
 - (v) the **State Library**;
 - (vi) an arena or stadium;
 - (vii) an arcade;
 - (viii) an amusement park;
 - (ix) a **retail betting premises**;
 - (x) a **gaming machine premises**;
 - (xi) a brothel, sex on premises venue or sexually explicit entertainment venue;
 - (xii) a bingo centre;
 - (xiii) a karaoke premises;
 - (xiv) a **nightclub**;
 - (xv) an **animal premises**;
 - (xvi) a **function premises**;
 - (xvii) a convention centre;
 - (xviii) a **licensed premises** to the extent that it is operated as a premises specified in paragraphs (i) to (xvii); and
 - (c) **function premises** a building, room or space that is used for the purpose of holding events, functions, conferences or receptions; and
 - (d) **large rehearsal theatre** means a theatre:
 - (i) at which rehearsals are conducted by a **National Performing Arts Company**; or

- (ii) that has a seated capacity of over 1000 people and ordinarily conducts performances on a commercial basis; and
- (e) **National Performing Arts Company** means an organisation funded through the National Performing Arts Partnership Framework; and
- (f) **nightclub** means a **premises**:
 - (i) to which a **late night licence** applies; and
 - (ii) with a dancefloor; and
 - (iii) which does not serve food prepared at the premises for consumption on the premises; and
- (g) **State Library** means the State Library Victoria; and
- (h) **zoological park** has the same meaning as in the **Zoological Parks and Gardens Act 1995**.

Food and drink premises

- (6) For the purposes of these directions:
 - (a) **club licence** has the same meaning as in the **Liquor Control Reform Act 1998**; and
 - (b) **food court** has the same meaning as in the **Liquor Control Reform Act 1998**; and
 - (c) **food and drink premises** means:
 - (i) a cafe;
 - (ii) a restaurant;
 - (iii) a fast-food store;
 - (iv) a cafeteria;
 - (v) a canteen;
 - (vi) a winery;
 - (vii) a food court;
 - (viii) a **licensed premises** to the extent it operates as a premises specified in paragraphs (i) to (vii); and
 - (d) **general licence** has the same meaning as in the **Liquor Control Reform Act 1998**; and
 - (e) **late night licence** has the same meaning as in the **Liquor Control Reform Act 1998**; and
 - (f) **licensed premises** means a business characterised as a pub, bar, club, **nightclub** or hotel that supplies alcohol under a **general licence**, an **on-premises licence**, a **late night licence**, a **producer's licence**, a **club licence** or a **packaged liquor licence**; and
 - (g) **on-premises licence** has the same meaning as in the **Liquor Control Reform Act 1998**; and

- (h) **packaged liquor licence** has the same meaning as in the **Liquor Control Reform Act 1998**; and
- (i) **producer's licence** has the same meaning as in the **Liquor Control Reform Act 1998**; and
- (j) **small food and drink premises** means a **food and drink premises** with a total area of all spaces accessible to members of the public of less than 100 square metres.

Gaming machine premises

- (7) For the purposes of these directions:
 - (a) **gaming machine** has the same meaning as in the **Gambling Regulation Act 2003**; and
 - (b) **gaming machine premises** has the same meaning as "gaming machine area" in the **Gambling Regulation Act 2003**.

Physical recreation premises

- (8) For the purposes of these directions:
 - (a) **hydrotherapy pool** means a pool designed to be used for hydrotherapy or rehabilitation purposes; and
 - (b) **physical recreation premises** means any of the following, whether operated on a for profit or not-for-profit basis:
 - (i) a **premises** used predominantly for indoor sport or physical recreation;

Examples: gymnasium, health club, fitness centre, yoga studio, pilates studio, barre studio, dance studio, spin premises, indoor basketball court, indoor climbing premises, squash court, table tennis centre.
 - (i) a premises used predominantly for outdoor sport or physical recreation;

Examples: golf club, tennis club, outdoor basketball courts, go kart track, rifle range, equestrian centre, mini golf, paint ball, lawn bowling, water skiing.
 - (ii) a cardio or strength training premises;

Examples: a cardio or strength premises featuring cardio equipment (such as exercise bikes, elliptical trainers, steppers and rowing machines), free weights, kettlebells and weight and/or strength training equipment and machines. A cardio or strength training premises may be a stand-alone premises or part of another premises (such as a gymnasium, health club or fitness centre).
 - (iii) a skatepark in an indoor space;
 - (iv) a trampolining centre;

- (v) a premises that has a swimming pool, **hydrotherapy pool**, spa, sauna, steam room or **spring**,

but does not include:

- (vi) a premises that has a skatepark in an outdoor space;
- (vii) a premises that has outdoor communal exercise equipment; and
- (c) a creative arts premises; and

Note: a skatepark in an outdoor space and outdoor communal exercise equipment are part of the definition of 'community premises'.

- (d) **spring** means a hot, sweet, geothermal or mineral pool, spa or bath fed by groundwater from an aquifer.

Places of worship

(9) For the purposes of these directions:

- (a) **place of worship** has the same meaning as in the **Heritage Act 2017**.

Real estate

(10) For the purposes of these directions:

- (a) **estate agent** has the same meaning as in the **Estate Agents Act 1980**; and
- (b) **real estate** has the same meaning as in the **Estate Agents Act 1980**.

Retail betting premises

(11) For the purposes of these directions:

- (a) **keno licensee** has the same meaning as in the **Gambling Regulation Act 2003**; and
- (b) **retail betting premises** means a **premises**, or part of a premises, operated by the **wagering and betting licensee**, the **keno licensee** or an agent of the wagering and betting licensee or keno licensee; and
- (c) **wagering and betting licensee** has the same meaning as in the **Gambling Regulation Act 2003**.

Retail premises

(12) For the purposes of these directions:

- (a) **beauty therapy premises** means a premises at which beauty therapy and personal care services are provided; and
- (b) **beauty therapy** has the same meaning as in the **PHW Act**; and
- (c) **bottle shop** means an area that is physically attached to a **licensed premises** where packaged alcohol is sold to be consumed off the premises; and
- (d) **essential retail premises** means:
 - (i) a **market**;

- (ii) a **retail shopping centre**;
 - (iii) a supermarket;
 - (iv) a **bottle shop**;
 - (v) a petrol station;
 - (vi) a newsagent;
 - (vii) a post office;
 - (viii) a grocery store;
 - (ix) a bakery;
 - (x) a butcher;
 - (xi) a fruit and vegetable store;
 - (xii) a fishmonger;
 - (xiii) a pharmacy;
 - (xiv) a premises on which vehicle and mechanical repair services are conducted;
 - (xv) a pet store;
 - (xvi) a car wash that can operate in a fully contactless manner;
 - (xvii) a laundry;
 - (xviii) a dry cleaners; and
- (e) **general retail premises** means a premises that is used wholly or predominantly for the sale or hire of goods by retail, or the retail provision of services, and includes:
- (i) an auction house;
- but does not include:
- (ii) an **essential retail premises**; or
 - (iii) a **restricted retail premises**; and
- (f) **hairdressing premises** means a premises at which hairdressing services are provided; and
- (g) **hairdressing** has the same meaning as in the **PHW Act**; and
- (h) **market** means a public market, whether indoor or outdoor, including a food market and includes individual stalls at a market; and
- (i) **restricted retail premises** means:
- (i) a **beauty therapy premises**; or
 - (ii) a **hairdressing premises**; and
- (j) **retail premises** means:
- (i) an **essential retail premises**;
 - (ii) a **general retail premises**; or

- (iii) a **restricted retail premises**; and
- (k) **retail shopping centre** has the same meaning as in the **Retail Leases Act 2003**.

Tours and tourism

(13) For the purposes of these directions:

- (a) **licensed tourism operator** means a person:
 - (i) granted a tour operator licence under:
 - (A) section 21B of the **Crown Land (Reserves) Act 1978**; or
 - (B) section 57F of the **Forests Act 1958**; or
 - (C) section 140I of the **Land Act 1958**; or
 - (D) section 27D of the **National Parks Act 1975**; or
 - (E) section 21B of the **Wildlife Act 1975**; or
 - (ii) providing a tour of an **entertainment and function premises**; and
- (b) **tourism services** means an activity, guided tour or recreation programme conducted or coordinated by an employee or officer of a **licensed tourism operator** that is undertaken for profit for tourism purposes including, but not limited to, ballooning, a walking tour or bushwalking tour, a bicycle tour, abseiling, rock climbing, canoeing, kayaking, white water rafting, diving, snorkelling, horse trail riding, marine based tours and surfing, or a guided tour of a museum or gallery.

37 Other definitions

For the purposes of these directions:

- (1) **Authorised Officer** has the same meaning as in the **PHW Act**;
- (2) **Commonwealth employee** has the same meaning as in the **Sex Discrimination Act 1984** of the Commonwealth;
- (3) **court** means:
 - (a) the Supreme Court;
 - (b) the County Court;
 - (c) the Magistrates' Court;
 - (d) the Children's Court;
 - (e) any Federal Court;
- (4) **COVID-19 Mandatory Vaccination (Specified Facilities) Directions** means the **COVID-19 Mandatory Vaccination (Specified Facilities) Directions (No 11)** as amended or replaced from time to time;

- (5) **COVID-19 Mandatory Vaccination (Workers) Directions** means the **COVID-19 Mandatory Vaccination (Workers) Directions (No 6)** as amended or replaced from time to time;
- (6) **COVID-19 vaccine** means a vaccine to protect a person against SARS-CoV-2 that:
 - (a) has been registered or provisionally registered by the Therapeutic Goods Administration; or
 - (b) has been approved by a comparable overseas regulator, as determined by the Therapeutic Goods Administration under regulation 16DA(3) of the **Therapeutic Goods Regulation 1990** of the Commonwealth;
- (7) **COVID Check-in Marshal** means a person designated to perform the duty specified in clause 5(2)(a)(ii) and in clause 11;
- (8) **critical unforeseen circumstance** means a circumstance that the operator could not reasonably have foreseen nor planned for which results in a critical need for staff;
- (9) **Directions currently in force** has the same meaning as in the **Workplace Directions** as amended or replaced from time to time;
- (10) **emergency situation** means a situation where it is reasonably apparent to an employer that medical treatment is necessary, as a matter of urgency to:
 - (a) save a person's life; or
 - (b) prevent serious damage to a person's health; or
 - (c) prevent a person from suffering or continuing to suffer significant pain or distress;
- (11) **face covering** means a fitted face mask that covers the nose and mouth to provide the wearer protection against infection (but does not include a face shield);
- (12) **judge** has the same meaning as **judicial officer** in the **Judicial Entitlements Act 2015**, but does not include the Deputy State Coroner or a reserve coroner;
- (13) **judicial registrar** has the same meaning as **judicial registrar** in **Judicial Entitlements Act 2015**, but does not include a judicial registrar within the meaning of the **Coroners Act 2008**;
- (14) **mandatory vaccination worker** means:
 - (a) a person who is a **worker** within the meaning of the **COVID-19 Mandatory Vaccination (Workers) Directions**;
 - (b) a person who is a **worker** in relation to a **specified facility** within the meaning of the **COVID-19 Mandatory Vaccination (Specified Facilities) Directions**; and
 - (c) an **excluded worker**;
- (15) **medical contraindication** means one of the following contraindications to the administration of a **COVID-19 vaccine**:

- (a) anaphylaxis after a previous dose;
 - (b) anaphylaxis to any component of the vaccine, including polysorbate or polyethylene glycol;
 - (c) in relation to AstraZeneca:
 - (i) history of capillary leak syndrome; or
 - (ii) thrombosis with thrombocytopenia occurring after a previous dose;
 - (d) in relation to Comirnaty or Spikevax:
 - (i) myocarditis or pericarditis attributed to a previous dose of either Comirnaty or Spikevax; or
 - (e) the occurrence of any other serious adverse event that has:
 - (i) been attributed to a previous dose of a COVID-19 vaccine by an experienced immunisation provider or medical specialist (and not attributed to any another identifiable cause); and
 - (ii) been reported to State adverse event programs and/or the Therapeutic Goods Administration;
- (16) **medical practitioner** means:
- (a) a general practice registrar on an approved 3GA training placement; or
 - (b) a public health physician; or
 - (c) an infectious disease physician; or
 - (d) a clinical immunologist; or
 - (e) a general practitioner who is vocationally registered; or
 - (f) a general practitioner who is a fellow of the Royal Australian College of General Practitioners (RACGP); or
 - (g) a general practitioner who is a fellow of the Australian College of Rural and Remote Medicine (ACRRM); or
 - (h) a paediatrician; or
 - (i) a medical practitioner who is a fellow of the Royal Australasian College of Physicians;
- (17) **premises** has the same meaning as in the **PHW Act**;
- (18) **revoked Restricted Activity Directions** means any of the **Restricted Activity Directions (Victoria)**, the **Restricted Activity Directions (Regional Victoria)**, the **Restricted Activity Directions (Metropolitan Melbourne)** or **Open Premises Directions** that came into effect on or after 27 May 2021 and are no longer in force;
- (19) **Senior Secondary examination** means an examination relating to a senior secondary certificate;
- (20) **Stay Safe Directions (Victoria)** means the **Stay Safe Directions (Victoria) (No 28)** as amended or replaced from time to time;

- (21) **Workplace Directions** means the **Workplace Directions (No 54)** as amended or replaced from time to time.

PART 7 — MISCELLANEOUS

38 Disclosure to Authorised Officers

- (1) An Authorised Officer may request an operator or its workers to produce to the Authorised Officer any vaccination information held by the operator in accordance with these directions.
- (2) If an Authorised Officer makes a request to a person under subclause (1), the person must comply with the request.

Note: Authorised Officers may also be authorised to exercise the public health risk power in section 190(1)(d) of the PHW Act to require the provision of any information needed to investigate, eliminate or reduce the risk to public health.

39 Penalties

- (1) 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 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.

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

False or misleading information

- (1) A person must not—
- (a) give information that is false or misleading in a material particular; or
 - (b) make a statement that is false or misleading in a material particular; or
 - (c) produce a document that is false or misleading in a material particular—

to the Secretary, a Council, the Chief Health Officer or an authorised officer under this Act or the regulations without indicating the respect in which it is false or misleading and, if practicable, providing correct information.

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

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

Penalty: In the case of a natural person, 60 penalty units;

In the case of a body corporate, 300 penalty units.

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



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.

29 October 2021

SCHEDULE 1 — OPEN PREMISES

Row	Open premises (Column 1)	Vaccinated patron limit for all indoor spaces (Column 2)	Vaccinated patron limit for all outdoor spaces (Column 3)	Additional reqs and exceptions	Premises-specific definitions
1.	accommodation premises	Not applicable	Not applicable	Clause 21	Clause 36(1)
2.	adult education or higher education premises	Not applicable	Not applicable	Clause 22	Clause 36(2)
3.	amusement parks	The density quotient (4 sq m)	In each outdoor space , the lesser of: (a) the density quotient (2 sq m); or (b) 500.	Not applicable	Not applicable
4.	arcades, escape rooms, bingo centres	The density quotient (4 sq m)	In each outdoor space , the lesser of: (a) the density quotient (2 sq m); or (b) 500.	Not applicable	Not applicable
5.	casino	The density quotient (4 sq m)	The lesser of: (a) the density quotient (2 sq m); or (b) 500.	Clause 26(1)(a)	Not applicable
6.	community premises	The density quotient (4 sq m)	The lesser of: (a) the density quotient (2 sq m); or (b) 500.	Clause 23	Clause 36(3)
7.	creative arts premises	The density quotient (4 sq m)	The lesser of: (a) the density quotient (2 sq m); or (b) 500.	Clause 24	Clause 36(4)
8.	drive-in cinemas	Not applicable	Not applicable	Clause 25	Clause 36(5)
9.	entertainment and function premises that are not specified elsewhere in this Column 1	In each indoor seated space , the greater of: (a) the density quotient (4 sq m); or (b) 75% capacity, up to 1000. In each indoor non-seated space :	The lesser of: (a) the density quotient (2 sq m); or (b) 5000.	Clause 26	Clause 36(5)

		(a) the density quotient (4 sq m)			
10.	food and drink premises	The density quotient (4 sq m)	The lesser of: (a) the density quotient (2 sq m); or (b) 500.	Clause 27	Clause 36(6)
11.	food and drink premises (small venues)	(a) 25; or (b) the density quotient (4 sq m) if more than 25	(a) 25; or (b) the density quotient (4 sq m) if more than 25	Not applicable	Not applicable
12.	funeral parlours and crematoriums	The density quotient (4 sq m)	The lesser of: (a) the density quotient (2 sq m); or (b) 500.	Clause 28	Not applicable
13.	gaming machine premises	The density quotient (4 sq m)	Not applicable	Clause 29	Clause 36(7)
14.	karaoke and nightclubs operating as food and drink premises	The density quotient (4 sq m)	The lesser of: (a) the density quotient (2 sq m); or (b) 500.	Clause 26(1)(b)	Clause 36(5)
15.	physical recreation premises	The density quotient (4 sq m).	The lesser of: (a) the density quotient (2 sq m); or (b) 500.	Clause 30	Clause 36(8)
16.	places of worship	The density quotient (4 sq m)	The lesser of: (a) the density quotient (2 sq m); or (b) 500.	Clause 31	Clause 36(9)
17.	real estate premises (inspections)	The density quotient (4 sq m)	The lesser of: (a) the density quotient (2 sq m); or (b) 500.	Clause 32	Clause 36(10)
18.	real estate premises (auctions)	The density quotient (4 sq m)	The lesser of: (a) the density quotient (2 sq m); or (b) 500.	Clause 32	Clause 36(10)
19.	restricted retail premises	The density quotient (4 sq m)	The density quotient (4 sq m)	Not applicable	Clause 36(12)
20.	retail betting premises	Not applicable	Not applicable	Clause 33	Clause 36(11)

21.	sex on premises, brothels and sexually explicit venues	The density quotient (4 sq m)	Not applicable	Not applicable	Clause 36(5)
22.	swimming pools, spas, saunas, steam rooms and springs	The density quotient (4 sq m)	The lesser of: (a) the density quotient (2 sq m); or (b) 500.	Clause 30	Clause 36(8)
23.	tours	The density quotient (4 sq m)	The lesser of: (a) the density quotient (2 sq m); or (b) 500.	Clause 34	Clause 36(13)
24.	premises used for tourism services	The density quotient (4 sq m)	The lesser of: (a) the density quotient (2 sq m); or (b) 500.	Clause 34	Clause 36(13)