

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

Metro-Regional Work Travel Permit Scheme Directions

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)(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 address the serious public health risk posed to Victoria by Novel Coronavirus 2019 (**2019-nCoV**).
- (2) These directions replace the **Permitted Worker Permit Scheme Directions (No 8)** and only apply to employees travelling between the **Restricted Area** and the **Relevant Area** (or vice versa).
- (3) The **Metro-Regional Work Travel Permit Scheme** details obligations on:
 - (a) employers who operate a **Work Premises** in the:
 - (i) **Restricted Area** and require an employee who ordinarily resides in the **Relevant Area**; or
 - (ii) **Relevant Area** and require an employee who ordinarily resides in the **Restricted Area**,
to attend those **Work Premises**; and
 - (b) their employees when travelling to and from those **Work Premises**.
- (4) These directions must be read together with the **Directions currently in force**.

2 Citation

- (1) These directions may be referred to as the **Metro-Regional Work Travel Permit Scheme Directions**.
- (2) The **Permitted Worker Permit Scheme Directions (No 8)** are revoked at 11:59:00pm on 27 October 2020.

PART 2 — METRO-REGIONAL WORK TRAVEL PERMIT SCHEME

3 Metro-Regional Work Travel Permit Scheme period

For the purposes of these directions, the **Metro-Regional Work Travel Permit Scheme period** is the period beginning at 11:59:00pm on 27 October 2020 and ending at 11:59:00pm on 8 November 2020.

4 Diagnosed Persons and Close Contacts

- (1) A person who is a **diagnosed person** or a **close contact** is not permitted to:
 - (a) hold a **Metro-Regional Work Travel Permit**; or
 - (b) otherwise attend a Work Premises in reliance on any of the provisions contained in these directions.
- (2) If a person is notified that they are a diagnosed person or a close contact in accordance with the **Diagnosed Persons and Close Contacts Directions (No 12)**:
 - (a) they must immediately notify their employer; and
 - (b) they must not attend or remain at the Work Premises; and
 - (c) any **Metro-Regional Work Travel Permit** is automatically revoked upon such notification.

*Note: once a person has been released or given clearance from self-isolation or self-quarantine in accordance with the **Diagnosed Persons and Close Contacts Directions (No 12)**, the terms of these directions will apply to them.*

5 Requirement to hold a Metro-Regional Work Travel Permit to attend a Work Premises

- (1) Subject to the further requirements set out in subclause (2):
 - (a) in accordance with clauses 8(1)(a) and (2) of the **Stay Safe Directions (Melbourne)**, a person who ordinarily resides in the Restricted Area may only leave the **premises** where the person ordinarily resides to attend work (whether the work is paid or voluntary, including for charitable or religious purposes) if it is not **reasonably practicable** for the person to work from the premises at which they ordinarily reside; and
 - (b) in accordance with clauses 6(1)(a) and (2) of the **Stay Safe Directions (Non-Melbourne) (No 6)**, a person who ordinarily resides in the **Relevant Area** may only leave the premises where the person ordinarily resides to attend work (whether the work is paid or voluntary, including for charitable or religious purposes) if it is not reasonably practicable for the person to work from the premises at which they ordinarily reside; and
 - (c) in accordance with clause 6 of the **Workplace Directions (No 8)**, an employer must not permit a worker to perform work at the Work

Premises where it is reasonably practicable for the worker to work at the worker's place of residence or another suitable premises which is not the Work Premises.

- (2) A person must not leave the premises at which they ordinarily reside to attend a Work Premises in the:
 - (a) Restricted Area, if they ordinarily reside in the Relevant Area; or
 - (b) Relevant Area, if they ordinarily reside in the Restricted Area, unless:
 - (c) the person has been issued with, and has in their possession, photographic personal identification and a current Metro-Regional Work Travel Permit issued by their employer in relation to that Work Premises; or
 - (d) an exemption in clause 9 applies.

6 Employers' duty to issue a Metro-Regional Work Travel Permit

- (1) In circumstances where clause 5 applies, and subject to clause 9, prior to an employee who ordinarily resides in the:
 - (a) Relevant Area being permitted to attend work at a Work Premises located within the Restricted Area; or
 - (b) Restricted Area being permitted to attend work at a Work Premises located in the Relevant Area,

their employer must issue the employee with a Metro-Regional Work Travel Permit, in the approved form.

Note 1: the approved Metro-Regional Work Travel Permit form for a person who ordinarily resides in the Relevant Area attending work at a Work Premises located in the Restricted Area (and vice versa) is available at: <https://www.dhhs.vic.gov.au/metro-regional-work-travel-permit-covid-19-doc>.

Note 2: an employer is only permitted to issue a Metro-Regional Work Travel Permit to their own employee or volunteer, and not to other persons working in their organisation who are not employees (such as an independent contractor or sub-contractor). The employer of a sub-contractor is required to issue that person with a Metro-Regional Work Travel Permit.

- (1A) If an employer has issued an employee with a valid Permitted Worker Permit under the **Permitted Worker Permit Scheme Directions (No 8)** or an earlier version of those directions, those permits may continue to be used for the duration of the Metro-Regional Work Travel Permit Scheme period.
- (2) In circumstances where clause 5 applies, and subject to clause 9, if a person does not have an employer because they are self-employed, a sole-trader, an independent contractor or sub-contractor, or a person appointed to or holding a statutory office, the person must issue themselves with a Metro-Regional Work Travel Permit in the approved form, signed as both the employer and the employee.

- (3) An employer must keep a record of all Metro-Regional Work Travel Permits they have issued during the Metro-Regional Work Travel Permit Scheme period. An employer must, on request, produce this record to an **Authorised Officer**, a Victoria Police Officer or a Protective Services Officer.
- (4) The Metro-Regional Work Travel Permit must, amongst other things:
- (a) be in the approved form; and
 - (b) only include details that are, to the best of the employer's and employee's knowledge, complete, accurate and not in any way false, misleading or deceptive; and
 - (c) record relevant details of the employer including:
 - (i) the employer's company name; and
 - (ii) the employer's ABN and/or ACN; and
 - (iii) the employer's company address; and
 - (iv) the employer's trading name; and
 - (v) the address of the Work Premises at which the employee is required to work; and

Note: if there is more than one Work Premises at which the employee is required to attend, this must be accompanied by a record detailing, as far as reasonably practicable, the expected place of attendance by the employee.
 - (vi) contact details of the employer (or an authorised representative of the employer) including:
 - (A) contact name; and
 - (B) contact title and role in the business; and
 - (C) telephone number; and
 - (D) contact name and telephone number of a secondary representative of the employer; and
 - (d) record relevant details of the employee including:
 - (i) the employee's full name; and
 - (ii) the employee's date of birth; and
 - (iii) the employee's address; and
 - (e) include a signed declaration by the employer (or an authorised representative of the employer) certifying that:
 - (i) it is not reasonably practicable for the employee to work without attending the Work Premises; and
 - (ii) the employer's Work Premises and work practices are compliant with all relevant legal obligations, including the public health directions issued under the PHW Act, in place at the relevant time, and the employer's obligations under the **OHS Act** (or,

where applicable, the **Work Health and Safety Act 2011** of the Commonwealth); and

- (iii) the employer has a COVIDSafe Plan in accordance with the **Workplace Directions (No 8)**; and

*Note: an employer is required to have a COVIDSafe Plan under the **Workplace Directions (No 8)** if they require or permit work to be performed at a Work Premises.*

- (iv) the employer is and will otherwise be operating in accordance with any applicable directions issued under the PHW Act; and
- (v) the information contained within the Metro-Regional Work Travel Permit is true and correct; and

Note 1: the employer is not required to certify that the information provided by the employee under subclause (5)(h) is true and correct.

Note 2: the employer (or an authorised representative of the employer) may sign electronically.

- (f) include a signed declaration by the employee certifying that:
 - (i) their own name and address as contained in the Metro-Regional Work Travel Permit are true and correct; and
 - (ii) their own place of work as contained in the Metro-Regional Work Travel Permit are true and correct; and

Note: the employee may sign electronically.

- (g) be issued, signed and dated by the employer (or an authorised representative of the employer).

Note 1: the Metro-Regional Work Travel Permit must be issued by a natural person residing in Victoria, unless there is no such person.

Note 2: the employer (or an authorised representative of the employer) may sign electronically.

7 Employer obligations

- (1) Subject to clause 9, an employer must take all reasonable steps to ensure that a person does not enter, or remain on, their Work Premises if the person is prohibited from doing so by:
 - (a) clause 4; or
 - (b) the **Workplace Directions (No 8)**; or
 - (c) clause 8.
- (2) An employer must comply with any lawful direction given by an Authorised Officer, a Victoria Police Officer or a Protective Services Officer in relation to:
 - (a) these directions; or
 - (b) a Metro-Regional Work Travel Permit that the employer has issued; or

- (c) a worker at the employer's Work Premises.
- (3) Where an employer requires work to be performed at a Work Premises, the employer must keep a record of those who attend the Work Premises in accordance with the **Workplace Directions (No 8)**.

8 Employee obligations

- (1) Subject to clause 9, a person must not enter:
 - (a) the Restricted Area, if the employee ordinarily resides in the Relevant Area; or
 - (b) the Relevant Area, if the employee ordinarily resides in the Restricted Area,

for work if they do not hold a current Metro-Regional Work Travel Permit.

- (2) An employee must:
 - (a) carry the Metro-Regional Work Travel Permit at all times at which they have left the premises at which they ordinarily reside to perform work; and

Note: a person may carry either a hardcopy or an electronic copy (or both) of the Metro-Regional Work Travel Permit.

- (b) carry photographic personal identification at all times at which they have left the premises at which they ordinarily reside to perform work.
- (3) An employee must, on request, produce to an Authorised Officer, a Victoria Police Officer or a Protective Services Officer photographic personal identification and a current Metro-Regional Work Travel Permit:
 - (a) when entering the Restricted Area or Relevant Area (as applicable) for work; and
 - (b) in relation to the employee's attendances at Work Premises.

9 Exemptions

- (1) An employee is permitted to enter the Restricted Area or Relevant Area (as applicable) for work without a current Metro-Regional Work Travel Permit where:
 - (a) the primary purpose of the employee's travel is to obtain their first Metro-Regional Work Travel Permit from an employer; or
 - (b) the employee is required to work from the Work Premises on short notice, rendering it impracticable for the employee to receive a current Metro-Regional Work Travel Permit (or a Metro-Regional Work Travel Permit that includes accurate details as to the employee's location) prior to attending the Work Premises. In these circumstances, the employee must carry a Metro-Regional Work Travel Permit in relation to the same employer which has expired or is incomplete, so that if necessary the employee's employer can be contacted to verify that the employee is required; or

- (c) it is not reasonable for the employee to work from their ordinary place of residence because of a risk of harm (including harm relating to family violence or violence of another person at the premises); or
 - (d) in exceptional circumstances, if the employee is carrying a written document (other than in the approved form) that includes all of the details required in clause 6(5) and the approved form (without the employer's certification and signature).
- (2) An adult is permitted to enter the Restricted Area or Relevant Area (as applicable) for work without a current Metro-Regional Work Travel Permit in circumstances where they are transporting a dependant or a person they ordinarily reside with to or from the Work Premises in accordance with a current Metro-Regional Work Travel Permit in relation to that dependant or other person.

Note: this encompasses circumstances where, for reasons including because of age, impairment, medical condition, disability, or other reasons, a person is not able to transport themselves to the Work Premises listed on their Metro-Regional Work Travel Permit and require a parent, guardian, carer or other responsible adult to transport them to their Work Premises.

- (3) Subject to subclauses (4) and (5), the following persons are not required to be issued with, and to hold, a Metro-Regional Work Travel Permit prior to entering the Restricted Area or Relevant Area (as applicable) for work:
- (a) all Victoria Police employees, Australian Defence Force employees, Australian Criminal Intelligence Commission employees, Australian Border Force employees, Australian Federal Police employees and employees of government intelligence and security agencies;
 - (b) emergency service workers, which include officers and employees of:
 - (i) Ambulance Victoria; and
 - (ii) Australian Red Cross; and
 - (iii) Bushfire Recovery Victoria; and
 - (iv) Country Fire Authority; and
 - (v) Emergency Management Victoria; and
 - (vi) Emergency Services Telecommunications Authority; and
 - (vii) Fire Rescue Victoria; and
 - (viii) Forest Fire Management Victoria; and
 - (ix) Life Saving Victoria; and
 - (x) Marine Search and Rescue; and
 - (xi) Victoria State Emergency Service Authority; and
 - (xii) Victorian Institute of Forensic Medicine;
 - (c) hospital workers and health workers (including non-emergency patient transport workers);

- (d) any class of person approved by the Chief Health Officer in writing and subject to any conditions specified by the Chief Health Officer.
- (4) A person is not required to have a Metro-Regional Work Travel Permit under subclause (3) provided that they have photographic personal identification issued by the organisation which employs or engages them in the capacity set out in subclause (3) and which identifies the person's place of work in that capacity.
- (5) An employee of the category defined in subclause (3) must, on request, produce the photographic personal identification referred to in subclause (4) which identifies the person's place of work to an Authorised Officer, a Victoria Police Officer or a Protective Services Officer.

PART 3 — OTHER PROVISIONS

10 Relationship with other directions

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

11 Other definitions

For the purposes of these directions:

- (1) **Authorised Officer** has the same meaning as in section 3 of the **PHW Act**;
- (2) **close contact** has the same meaning as in the **Diagnosed Persons and Close Contacts Directions (No 12)**;
- (3) **diagnosed person** has the same meaning as in the **Diagnosed Persons and Close Contacts Directions (No 12)**;
- (4) **Direction and Detention Notice** means a notice given to a person requiring the person to be detained for a specified period;
- (5) **Directions currently in force** has the same meaning as in the **Area Directions (No 9)**;
- (6) **Metro-Regional Work Travel Permit** means a permit issued under clause 6;
- (7) **Metro-Regional Work Travel Permit Scheme** means the scheme established under these directions;
- (8) **Metro-Regional Work Travel Scheme period** means the period specified under clause 3;
- (9) **OHS Act** means the **Occupational Health and Safety Act 2004**;
- (10) **PHW Act** means the **Public Health and Wellbeing Act 2008**;
- (11) **premises** has the same meaning as in section 3 of the **PHW Act**;

- (12) **reasonably practicable** is to have its ordinary and common sense meaning;
- (13) **Relevant Area** means the area of Victoria outside the **Restricted Area**;
- (14) **Restricted Area** has the same meaning as in the **Area Directions (No 9)**;
- (15) **vehicle** has the same meaning as in the **PHW Act**;
- (16) **Work Premises** means the **premises** of an employer in which work is undertaken, including any **vehicle** whilst being used for work purposes.

12 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.

- (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.

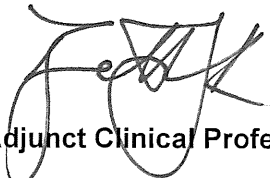
Penalty: In the case of a natural person, 120 penalty units;

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) \$1,600 in the case of a natural person; or
 - (b) \$9,900 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).
- (5) If the content of a Permitted Worker Permit is suspected to be fraudulent criminal investigations may be considered.



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.

27 October 2020