

## EMERGENCY MANAGEMENT ACT 2005 (WA)

### Sections 67, 71 and 72A

## SAFE TRANSITION FOR WESTERN AUSTRALIA DIRECTIONS

The World Health Organization declared COVID-19 a pandemic on 11 March 2020.

On 15 March 2020, the Minister for Emergency Services declared a state of emergency with effect from 12 a.m. on 16 March 2020 in respect of the pandemic caused by COVID-19 pursuant to section 56 of the *Emergency Management Act 2005* (WA) (**Act**) (**State of Emergency**). The State of Emergency applies to the State of Western Australia.

I, Christopher John Dawson, Commissioner of Police and State Emergency Coordinator, give certain of these directions (relating to the closure of certain places) pursuant to my powers under section 71 of the Act, consider it reasonably necessary to give other directions to prevent, control or abate the risks associated with the emergency presented by the pandemic caused by COVID-19 pursuant to my powers under sections 67 and 72A of the Act and specify certain information under section 72A(1) of the Act.

### PREAMBLE

1. The purpose of these directions is to facilitate a safe transition for the Western Australian community from the stay at home and closure measures that were introduced on 31 January 2021 to a COVID safe re-opening of places and activities so as to limit the spread of COVID-19.

### CITATION

2. These directions may be referred to as the **Safe Transition for Western Australia Directions**.

### COMMENCEMENT

3. These directions come into effect at 6.00 pm on 5 February 2021 and continue in effect until 12.01 am on 14 February 2021 or such other further period specified in writing by me.

### OPERATION

4. These directions apply in the **affected area** only.

5. The Closure and Restriction (Limit the Spread) Directions (No 13) also apply in the affected area, except to the extent that they are modified or excluded by, or otherwise inconsistent with, a provision of these directions.

## **DIRECTIONS**

*Note: These directions apply special rules to the affected area. Those measures include some heightened restrictions when compared to the measures in place in Western Australia prior to 31 January 2021. Those measures are needed to ensure Western Australia's safe transition from the stay at home period. You must comply with the requirements even if the Closure and Restriction (Limit the Spread) Directions (No 13) impose a different or lesser obligation.*

*Example 1: the Closure and Restriction (Limit the Spread) Directions (No 13) impose a 2 square metre rule and no cap on total numbers of patrons for restaurants in Western Australia. These directions impose a 4 square metre rule and a cap of 150 patrons on restaurants in the affected area. You are required to comply with the 4 square metre rule and cap set out in these directions. Nothing in these directions changes the position that you are also required to comply with any other legal requirements which apply to the particular place or activity by virtue of the operation of other laws, such as your obligations under the Food Act 2008.*

*Example 2: the Closure and Restriction (Limit the Spread) Directions (No 13) make special provision for events. These directions make no special provision for them. If a place is a Schedule 1 place in this direction, then the 150 patron cap and 4 square metre rule will apply (other than for a funeral) even if a COVID Event Plan is in place.*

### **Special rules for some formerly affected places**

*Note: certain places that are "formerly affected places" under the Closure and Restriction (Limit the Spread) Directions (No 13) are subject to special rules under these directions. The casino and nightclubs are closed under paragraph 6. Formerly affected places listed in Schedule 1 are subject to the requirements in paragraph 7 instead of the requirements that apply to them as formerly affected places in the Closure and Restriction (Limit the Spread) Directions (No 13). Any formerly affected places which are not the casino, a nightclub or a Schedule 1 place continue to be subject to the provisions that apply to them as formerly affected places in the Closure and Restriction (Limit the Spread) Directions (No 13).*

### **Closure of the casino and nightclubs**

6. The owner, occupier or person apparently in charge of:

- (a) a **casino**; or
- (b) a **nightclub**,

that is in the affected area must close that place to the public.

*Note: these directions do not close any business or place to the public other than as set out in paragraph 6.*

***Special gathering rules for Schedule 1 places***

7. Every owner, occupier or person apparently in charge of a **Schedule 1 place** in the affected area:
- (a) may only open that place to the public if the **re-opening requirements** have been complied with in respect of that place; and
  - (b) may only serve a meal or drink (other than a takeaway meal or drink) to a **patron** if the meal or drink will be consumed while the patron is seated; and
  - (c) must not allow a gathering of more than 150 patrons at the place at the same time (excluding any person present to collect a takeaway meal or drink) and, for the avoidance of doubt:
    - (i) where the place comprises multiple single undivided spaces (whether indoors or outdoors) no more than 150 patrons may be in those spaces at any one time; and
    - (ii) where the place comprises more than one building no more than 150 patrons may be in those buildings at any one time; and
    - (iii) where the place is in a building with more than one place in the building and those places are under common management or control, no more than 150 patrons may be in those places at any one time; and
  - (d) must not allow a gathering of 2 or more patrons in a single undivided **indoor space** or a single undivided **outdoor space** at the place at the same time, where there is not at least 4 square metres of space for each person at the gathering except where the place is or is in a beauty parlour or salon (including a hairdressers or barbershop), nail salon, tattoo parlour, spa or massage parlour and is being used to provide a service or services described in paragraph 32(f).

*Note: beauty parlours and salons (including hairdressers and barbershops), nail salons, tattoo parlours, spas and massage parlours do not have to comply with a square metre rule for each patron when they are used to provide certain services, because they must keep 1.5 metres between each person providing a beauty therapy service and patron and each other person providing such a service and patron.*

### ***Prohibited activities in the affected area***

8. The provisions of the Closure and Restriction (Limit the Spread) Directions (No 13) relating to prohibited activities do not apply in the affected area. Paragraphs 9, 10, 11 and 12 of these directions apply instead.
9. A person who owns, controls or operates **premises** in the affected area must not allow a **prohibited activity** to occur on the premises.
10. A person must refrain from organising, undertaking or engaging in a prohibited activity in the affected area.
11. A person must not hold or conduct a prohibited activity in the affected area.
12. A person must not attend a prohibited activity in the affected area.

### **Face coverings**

13. A person in the affected area must wear a **face covering** at all times while they are outside the place where they ordinarily reside, including while in a vehicle (including a **motor vehicle**, boat or aircraft), unless:
  - (a) the person is a child 12 years of age or under, except at a time when the child is attending school in Year 7 or above; or
  - (b) the person has a physical, developmental or mental illness, injury, condition or disability which makes wearing a face covering unsuitable; or
  - (c) the person is a prisoner or detainee in a prison, detention centre or other place of custody; or

*Note: nothing in these directions affects any other power a person may have to require a prisoner or detainee to wear a face covering.*

- (d) the person falls within one or more of the exceptions specified in paragraph 14 and is carrying a face covering (or, in the case of paragraph 14(g) or (h), the

person has access to a face covering close by) and resumes wearing the face covering as soon as reasonably practicable.

14. The exceptions specified in this paragraph are as follows:

- (a) the person is communicating with a person who is deaf or hard of hearing and visibility of the mouth is essential for communication;
- (b) the person is at the time attending school as a student in Year 6 or below;
- (c) the nature of a person's occupation means that wearing a face covering is impractical to perform that occupation or creates a risk to their health and safety;
- (d) the person needs to temporarily remove their mask so as to enable another person to appropriately perform their occupation;
- (e) the nature of a person's work or the activity that they are engaging in means that clear enunciation or visibility of the mouth is essential;
- (f) the person is a teacher who at the time is engaging in teaching primary, secondary or tertiary students or a child care worker engaging in child care;
- (g) the person is engaged in an activity involving swimming;
- (h) the person is running or jogging or otherwise engaged in some form of strenuous or vigorous exercise or physical activity that is taking place outside;
- (i) the person is travelling in a motor vehicle and is the sole occupant of that vehicle;
- (j) the person is consuming food, drink or medicine, provided that they are seated at the time and they are not in a vehicle;
- (k) the person is undergoing medical, dental or beauty related care or treatment to the extent that such care or treatment requires that no face covering be worn;
- (l) the person is asked to remove the face covering to ascertain identity;
- (m) not wearing a face covering is required for emergency purposes (other than emergency preparation or emergency preparation activities, unless another exception specified in this paragraph applies);

- (n) the person is directed by a judicial officer or tribunal member in proceedings in a court or tribunal to remove their mask to ensure the proper conduct of those proceedings;
  - (o) not wearing a face covering is otherwise required or authorised by law; or
  - (p) wearing a face covering is not safe in all the circumstances.
15. If a person is in the affected area at any time after these directions commence and then travels outside of the affected area, the person must comply with the requirements of paragraph 13 while they are outside the affected area as if they remained in the affected area.
- Note: a person who is required by paragraph 13 to wear a mask is able to rely on any exceptions under paragraph 14 to the same degree that they could if they were in the affected area.*
16. These requirements are intended to apply despite the Airport and Transportation (Face Masks) Directions and the Aircraft Travel (Face Masks) Directions and to the extent of any inconsistency between those directions and these directions, these directions prevail.

#### **Leaving and entering the affected area**

17. If a person is outside the affected area, they may only enter the affected area in accordance with Schedule 2.
18. If a person is in the affected area, they may only leave the affected in accordance with Schedule 3.

#### **DEFINITIONS**

19. **Affected area** means the area comprising:
- (a) the Metropolitan region described in Schedule 3 to the *Planning and Development Act 2005 (WA)* (**Planning Act**); and
  - (b) the Peel Region described in item 6 of Schedule 4 to the *Planning Act*.
20. **Bottleshop** means an area physically attached or adjacent to the premises of a business characterised as a pub, bar or club referred to in item 1 of Schedule 1, or a hotel referred to in item 2 of Schedule 1, that is for the sale of packaged alcohol to be consumed off the premises of the pub, bar, club or hotel.
21. **Casino** has the same meaning as in the *Casino Control Act 1984 (WA)*.

22. **Entertainment venue of any other kind** means any entertainment venue except a casino, cinema (including a drive-in cinema or outdoor cinema) or nightclub.
- Note: the reference to outdoor cinemas has been inserted to put beyond doubt that references to cinemas include not only drive-in cinemas but outdoor cinemas.*
23. **Face covering** means a disposable surgical mask or fitted cloth mask that covers the nose and mouth (but does not include a face shield).
24. **Indoor space** means an area, room or premises that is or are substantially enclosed by a roof and a **sufficient dividing structure**, regardless of whether the roof or sufficient dividing structure, or any part of them, are permanent or temporary or capable of being opened or closed.
25. **Motor vehicle** has the same meaning as in paragraph (b) of the definition of "motor vehicle" in section 4 of the *Road Traffic (Administration) Act 2008* (WA).
26. **Nightclub** means a place that has a nightclub licence under section 42 of the *Liquor Control Act 1988* (WA) or another place that is specified in writing by me, or a person authorised by me for the purpose, to be a nightclub for the purposes of these directions.
27. **Outdoor space** means a space that is not an indoor space.
28. **Patron** means a person who is not **staff** (and for the avoidance of doubt includes spectators).
29. **Place of worship** means premises used for religious activities such as a chapel, church, mosque, synagogue or temple.
30. **Premises** includes:
- (a) land (whether vacant or not); and
  - (b) land covered by water, whether permanently or temporarily or from time to time; and
  - (c) the whole or any part of a building or other structure, of whatever type and whether of a permanent or temporary nature; and
  - (d) a vehicle.
31. **Private gathering** means an organised or planned activity for a common recreational purpose, other than a sporting activity, whether it takes places indoors, outdoors or on other premises such as a vehicle.

*Example: a party or picnic is a private gathering. A wedding or funeral is not a private gathering because it does not have a recreational purpose.*

32. **Prohibited activity** means any of the following activities (and whether undertaken or engaged in on a for profit or not-for-profit basis or recreational basis):

- (a) dancing, except at a dance studio or a wedding reception or by a professional dancer;
- (b) a sporting activity, whether indoors or outdoors, except where no more than 150 persons participate in the activity (including officials and spectators); or
- (c) a wedding, other than to the extent that, excluding the celebrant, it involves no more than 150 persons;
- (d) a funeral, other than to the extent that, excluding those persons whose presence is necessary to conduct the funeral, the funeral:
  - (i) involves no more than 150 persons; or
  - (ii) the funeral has been approved in writing by me, or someone authorised for that purpose by me, as the State Emergency Coordinator; or
- (e) a **private gathering** where more than 20 persons are involved in the activity at any one time, unless the activity takes place at a Schedule 1 place (other than a place described in item 18 of Schedule 1 that is an outdoor facility such as a sporting ground or park);

*Note: the activities described in paragraph 32(a) to (e), when not prohibited by this paragraph, are still subject to the prohibited gathering rules in these directions or the Closure and Restriction (Limit the Spread) Directions (No 13), as applicable, in addition to any requirements imposed by this paragraph.*

- (f) beauty therapy services, including but not limited to tanning, waxing, massages, nail services, tattooing and piercing, hairdressing and barbering, except where a distance of at least 1.5 metres is kept between each person providing such a service and their customer and every other person providing such a service and their customer in the place where those services are being provided.

*Note: the activities described in paragraph 32(f), when not prohibited by this paragraph, are not subject to the prohibited gathering rules in these directions*



*or the Closure and Restriction (Limit the Spread) Directions (No 13), as applicable, because of the 1.5 metre distance requirement imposed by this paragraph.*

33. **Re-opening requirements** means each of the following requirements:

- (a) completion or updating of a **safety plan**, as the case may be, before the place opens to the public for purposes other than purposes for which the place could have opened to the public (if any), or before the place allows more persons or patrons to be at the place than could lawfully have been at the place, immediately before these directions came into effect; and
- (b) display of a **safety plan certificate** in a prominent place visible to members of the public at the place from no later than when the place opens to the public until the State of Emergency ends.

34. **Safety plan** means a plan which addresses (for the purposes of preventing the spread of COVID-19) how the owner, occupier or person apparently in charge of the place to which the plan relates, and their staff, intend to ensure that:

- (a) physical distancing guidelines will be implemented; and
- (b) required hygiene standards will be maintained; and
- (c) staff will be appropriately trained or educated; and
- (d) an exposure or suspected exposure of a person to COVID-19 will be managed appropriately.

*Note: at the time of making these directions, information about preparing safety plans, as well as safety plan certificates, are provided at the following website:*

*<https://www.wa.gov.au/organisation/department-of-the-premier-and-cabinet/covid-19-coronavirus-business-and-industry-advice#covid-safety-plan>*

35. **Safety plan certificate** means a certificate which:

- (a) states the number of patrons who can be accommodated at the place (unless the place is a beauty parlour or salon (including a hairdressers or barbershop), nail salon, tattoo parlour, spa or massage parlour and is being used to provide a service or services described in paragraph 32(f)); and

- (b) records the agreement of the owner, occupier or person apparently in charge of the place where the safety plan certificate is displayed to maintain the WA Government's safety measures.

*Note: at the time of making these directions, information about the requirements and form of a safety plan certificate is provided at the following website:*

*<https://www.wa.gov.au/organisation/department-of-the-premier-and-cabinet/covid-19-coronavirus-business-and-industry-advice# covid-safety-plan>*

- 36. **Schedule 1 place** means a place described in any one or more items in Schedule 1 to these directions, whether operated on a for profit or not-for-profit basis.
- 37. **Specified arrangement** has the same meaning that it has in the Controlled Border for Western Australia Directions.
- 38. **Staff** means a person who has responsibilities at a place as an officer or employee or in some other capacity (including a voluntary capacity) and includes:
  - (a) in the case of a sporting activity, coaches and officials such as umpires, referees or scorekeepers;
  - (b) in the case of a religious service at a place of worship:
    - (i) a person who leads or presides at the service, such as an imam, priest or rabbi; and
    - (ii) persons who assist the person who leads or presides at the service (including those who would ordinarily read from scripture or some other sacred text to a congregation or other group gathered to participate in the service); and
    - (iii) persons present for the purpose of live streaming or recording the service.
- 39. **Sufficient dividing structure** means a wall or other structure which:
  - (a) substantially comprises material that is impervious to air flow; and
  - (b) is capable of being cleaned or sanitised; and
  - (c) is anchored to the ground or floor in a way which ensures that it cannot be lifted or pushed apart; and

(d) either:

- (i) reaches from the ground or floor to the ceiling (or roof if there is no ceiling); or
- (ii) starts from the ground or floor and is at least 2 metres high from the ground or floor to its lowest vertical point measured from the ground or floor.

*Note: in addition to meeting these requirements, a sufficient dividing structure must comply with any other legal requirements applicable to the structure in any way, including any legal requirements relating to the structural integrity of the structure (such as, but not limited to, requirements typically imposed or administered by local governments).*

40. **Wildlife park** means an amusement park at which the dominant form of amusement or entertainment relates to any or all of exposure to or experiences with or viewing wildlife but, for the avoidance of doubt, does not include Perth Zoo.

*Example: Caversham Wildlife Park is an amusement park which falls within this definition of a wildlife park.*

#### **SPECIFICATION OF INFORMATION UNDER SECTION 72A(1) OF THE ACT**

41. For the purposes of the definition of "relevant information" in section 72A(1) of the Act, I specify information relating to whether a person has completed a safety plan.

#### **PENALTIES**

It may be an offence to fail to comply with any of these directions, punishable by imprisonment for up to 12 months or a fine of up to \$50,000 for individuals and \$250,000 for bodies corporate.



.....  
**Christopher John Dawson**  
Commissioner of Police and State Emergency Coordinator

S February 2021 1752 hours

## SCHEDULE 1

### Schedule 1 places

1. a business characterised as a pub, bar or club that supplies alcohol under a licence granted under the *Liquor Control Act 1988* (WA) (but not including any part of the business constituted by a **bottleshop**)
2. a hotel, whether licensed or unlicensed, except any part of the hotel constituted by a bottleshop or to the extent that the hotel provides accommodation
3. a gym, indoor sporting centre, wellness centre, health club or fitness centre (including a centre offering yoga, barre, pilates, aerobics, dancing or spin facilities) or boot camp
4. a cinema (including a drive-in cinema or outdoor cinema)
5. an **entertainment venue of any other kind**
6. a restaurant or café (including premises selling food or drink in a food court)
7. a **place of worship**
8. an auction house
9. a beauty parlour or salon (other than a hairdressers or barbershop)
10. a nail salon
11. a tattoo parlour
12. a spa
13. a massage parlour
14. a gaming or gambling venue
15. adult entertainment premises (including but not limited to strip clubs, brothels and sex on premises venues)
16. an amusement park or arcade (including, for the avoidance of doubt, a **wildlife park**, irrespective of whether the wildlife park was ever an affected place under previous directions made by me)
17. a play centre, whether indoors or outdoors

18. a community, recreation or youth centre or facility (including but not limited to community halls, clubs, Returned and Services League facilities and Police and Community Youth Centres)

*Note: for the avoidance of doubt, outdoor facilities such as sporting grounds and parks are community, recreation or youth centres or facilities*

19. a sauna
20. a bathhouse
21. a swimming pool, whether indoors or outdoors
22. a gallery
23. a museum
24. an historic site
25. a library
26. Perth Zoo

## SCHEDULE 2

### Circumstances in Which a Person May Enter the Affected Area

1. A person may only enter the affected area in one of the circumstance specified in paragraphs 2 to 9 of this Schedule.
2. The person enters Western Australia from a place outside of Western Australia at a point of entry that is within the affected area and that entry is in accordance with the Controlled Border for Western Australia Directions or a **specified arrangement**.
3. It is necessary for the person to do so for the purposes of:
  - (a) returning to the person's principal place of residence;
  - (b) attending the person's place of employment, or fulfilling the usual duties of the person's employment, office or occupation;
  - (c) attending primary, secondary or tertiary education (including technical and further education) as a student;
  - (d) enabling the education of someone for whom the person has parental or other caring responsibility;
  - (e) obtaining or providing veterinary assistance or animal welfare services that cannot be readily obtained outside the affected area or ensuring adequate food and water supplies to, and care and exercise of, animals for whom the person is responsible ;
  - (f) being the primary carer for a family member or someone for whom the person has primary caring responsibility;
  - (g) shared parenting arrangements, or fulfilling their obligations under a parenting plan, whether the arrangements are under a court order or otherwise;
  - (h) escaping the threat of physical or psychological harm, including family violence;
  - (i) because of an emergency (such as a bushfire or cyclone);
  - (j) leaving Western Australia by the most direct route possible;

- (k) obtaining a time-sensitive essential good or service, including police and social services and medical care, assistance or other health related services, that is not reasonably available outside of the affected area;
  - (l) being tested for COVID-19 in a circumstance where it is not reasonably possible to do so at a location outside the affected area.
4. The person does so for **compassionate reasons**.
  5. The person is in the custody of a police officer, prison officer, custodial officer or custodial services contractor.
  6. The person left the affected area in one of the circumstances set out in Schedule 3 and that circumstance has now concluded.
  7. The person is transiting through the affected area to a place outside the affected area and does not stop otherwise than as necessary for fuel or rest or as required by law.
  8. The person is required to do so by law.
  9. The person does so with the approval of an authorised officer and complies with any terms and conditions to which that approval is subject.

## **DEFINITION**

10. **Compassionate reasons** means:
  - (a) providing care and support to a relative or other person:
    - (i) who has particular needs because of homelessness, age, infirmity, disability, illness or a chronic health condition; or
    - (ii) because of matters relating to the relative or other person's health (including mental health or pregnancy);
  - (b) the incapacitation of a member of the person's immediate family or household due to serious injury;
  - (c) serious or life threatening illness of a member of the person's immediate family or household; or
  - (d) death of a member of the person's immediate family or household;
  - (e) end of life support to a member of the person's immediate family; or
  - (f) attending a funeral.

### **SCHEDULE 3**

#### **Circumstances in Which a Person May Leave the Affected Area**

1. A person may only enter the affected area in one of the circumstance specified in paragraphs 2 to 8 of this Schedule.
2. It is necessary for the person to do so for the purposes of:
  - (a) returning to the person's principal place of residence;
  - (b) attending the person's place of employment, or fulfilling the usual duties of the person's employment, office or occupation;
  - (c) attending primary, secondary or tertiary education (including technical and further education) as a student;
  - (d) enabling the education of someone for whom the person has parental or other caring responsibility;
  - (e) obtaining or providing veterinary assistance or animal welfare services that cannot be readily obtained within the affected area or ensuring adequate food and water supplies to, and care and exercise of, animals for whom the person is responsible;
  - (f) being the primary carer for a family member or someone for whom the person has primary caring responsibility;
  - (g) shared parenting arrangements, or fulfilling their obligations under a parenting plan, whether the arrangements are under a court order or otherwise;
  - (h) escaping the threat of physical or psychological harm, including family violence;
  - (i) because of an emergency (such as a bushfire or cyclone);
  - (j) leaving Western Australia by the most direct route possible;
  - (k) obtaining a time-sensitive essential good or service, including police and social services and medical care, assistance or other health related services, that is not reasonably available within the affected area;
  - (l) being tested for COVID-19 in a circumstance where it is not reasonably possible to do so at a location within the affected area.



3. The person does so for **compassionate reasons**.
4. The person is in the custody of a police officer, prison officer, custodial officer or custodial services contractor.
5. The person entered the affected area in one of the circumstances set out in Schedule 2 and that circumstance has now concluded.
6. The person needs to transit through an area outside of the affected area for the purposes of leaving Western Australia and does not stop otherwise than as necessary for fuel or rest or as required by law.
7. The person is required to do so by law.
8. The person does so with the approval of an authorised officer and complies with any terms and conditions to which that approval is subject.

#### **DEFINITION**

9. **Compassionate reasons** means:
  - (a) providing care and support to a relative or other person:
    - (i) who has particular needs because of homelessness, age, infirmity, disability, illness or a chronic health condition; or
    - (ii) because of matters relating to the relative or other person's health (including mental health or pregnancy);
  - (b) the incapacitation of a member of the person's immediate family or household due to serious injury;
  - (c) serious or life threatening illness of a member of the person's immediate family or household; or
  - (d) death of a member of the person's immediate family or household;
  - (e) end of life support to a member of the person's immediate family; or
  - (f) attending a funeral.