

EMERGENCY MANAGEMENT ACT 2005 (WA)

Sections 71 and 72A

CLOSURE AND RESTRICTION (LIMIT THE SPREAD) DIRECTIONS (NO 7)

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 as a police officer 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 section 72A of the Act and specify certain information under section 72A(1) of the Act.

PREAMBLE

1. The purpose of these directions is to prohibit certain gatherings and activities and to give further directions in order to prevent, control or abate the risks associated with the emergency presented by the pandemic caused by COVID-19, by limiting the spread of COVID-19, and for those purposes to specify certain information under section 72A(1) of the Act.

CITATION

2. These directions may be referred to as the **Closure and Restriction (Limit the Spread) Directions (No 7)**.

COMMENCEMENT

3. These directions come into effect at 11.59 pm on 23 October 2020.

REVOCATION

4. The Closure and Restriction (Limit the Spread) Directions (No 6) I made on 16 September 2020 are revoked.

DIRECTIONS

Note: these directions change restrictions imposed by previous and now revoked directions. For the avoidance of doubt, a gathering or activity (including a gathering or activity which was prohibited or restricted before these directions came into effect or which is differently restricted by these directions) must comply not only with these directions but with any other legal obligation imposed by something other than these directions which is applicable to that gathering or activity or the opening of that place such as, for example, requirements imposed by or under the Food Act 2008 (WA), the Health (Miscellaneous Provisions) Act 1911 (WA), the Health (Public Buildings) Regulations 1992 (WA) or the Liquor Control Act 1988 (WA).

Prohibited gatherings

5. A person who owns, controls or operates **premises** in the State of Western Australia must not allow a **prohibited gathering** to occur on the premises.
6. A person must not organise a prohibited gathering on premises in the State of Western Australia.
7. A person must not attend a prohibited gathering on premises in the State of Western Australia.

Prohibited activities

8. A person who owns, controls or operates premises in the State of Western Australia must not allow a **prohibited activity** to occur on the premises.
9. A person must refrain from undertaking or engaging in a prohibited activity.
10. A person must not hold or conduct a prohibited activity.
11. A person must not attend a prohibited activity.

Certain places of business, worship and entertainment

12. Every owner, occupier or person apparently in charge of:
 - (a) a **formerly affected place** must not open that place to the public unless:
 - (i) the place is a **playground**, a **skate park** or an **outdoor gym**; or
 - (ii) the **re-opening requirements** have been complied with in respect of that place;

- (b) a **high capacity hospitality venue** must not allow a gathering of 2 or more persons 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 2 square metres of space for each person at the gathering except where:
- (i) the whole of the venue comprises a formerly affected place referred to in paragraph 12(d), in which case the requirements of paragraph 12(d) apply; or
 - (ii) the whole of the venue comprises a **seated entertainment space**, in which case the requirements of paragraph 13 apply; or
 - (iii) part of the venue comprises the HBF Stadium - **Main Arena** referred to in paragraph 12(d), in which case the requirements of paragraph 12(d) apply to that part; or
 - (iv) part of the venue comprises a seated entertainment space, in which case the requirements of paragraph 13 apply to that part;
- (c) a formerly affected place 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 2 square metres of space for each patron at the gathering except where:
- (i) the place is a playground, a skate park, or an outdoor gym; or
 - (ii) the place is a high capacity hospitality venue; or
 - (iii) the whole of the place comprises a seated entertainment space, in which case the requirements of paragraph 13 apply; or
 - (iv) part of the place comprises a seated entertainment space, in which case the requirements of paragraph 13 apply to that part; or
 - (v) 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 15(b);

Note: beauty parlours and salons (including hairdressers and barbershops), nail salons, tattoo parlours, spas and massage parlours do not have to comply with the requirement for 2 square metres for each patron when they are used to

provide services described in paragraph 15(b), 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: see paragraph 15(b)

(d) a formerly affected place, or any part of a formerly affected place, referred to in the first column of the table below must not allow at the place or the relevant part of the place more than the number of persons specified in the same row of:

- (i) the second column of the table for a concert; or
- (ii) the third column of the table for any other purpose.

Optus Stadium	36,500	35,500
HBF Park	16,500	10,150
RAC Arena	8,250	7,150
HBF Stadium - Main Arena	2,945	2,218

13. The owner, occupier or person apparently in charge of a seated entertainment space that is, or is in, a formerly affected place that is not a, or part of a, formerly affected place referred to in paragraph 12(d), must not allow a gathering of 2 or more patrons in the seated entertainment space at the same time where the number of patrons exceeds the number that is the greater of:

- (a) the number of patrons that may gather in the seated entertainment space at the same time where there is at least 2 square metres of space for each patron at the gathering; or
- (b) the number of patrons that is 60% of the **seated capacity** of the seated entertainment space, provided that:
 - (i) the owner, occupier or person apparently in charge of the formerly affected place takes all reasonable steps to ensure that groups of patrons remain a distance of at least 1.5 metres apart; and
 - (ii) the gathering is not an **event**.

DEFINITION OF PROHIBITED GATHERING

14. A **prohibited gathering** means a gathering of 2 or more persons in a single undivided indoor space or a single undivided outdoor space at the same time (whether or not the

space is a **public place**), where there is not at least 2 square metres of space for each person at the gathering, but does not include a gathering:

- (a) at an airport that is necessary for the normal business of the airport; or
- (b) for the purposes of or related to public transportation, including at public transportation facilities such as stations, platforms and stops; or
- (c) at a medical or health service facility that is necessary for the normal business of the facility; or
- (d) at a disability or aged care facility that is necessary for the normal business of the facility; or
- (e) for the purposes of providing care or assistance (including personal care) to a vulnerable person or providing emergency assistance; or
- (f) for the purposes of emergency services; or
- (g) at a prison, detention centre, lock up or other place of custody for the purposes of or related to the operation of that place of custody; or
- (h) at Parliament for the purposes of its normal operations; or
- (i) at a court or tribunal; or
- (j) at a food market, supermarket, grocery store, retail store or shopping centre that is necessary for the normal business of those premises; or
- (k) at an office building, factory, mining site (including mining site accommodation), construction site or other place of work that is necessary for the normal business of those premises, except premises described in paragraph 14(1); or
- (l) at a school, university, educational institution or childcare facility that is necessary for the normal business of the facility; or
- (m) at a hotel, motel or other accommodation facility that is necessary for the normal operation of accommodation services; or
- (n) in an outdoor space where a gathering of persons which would otherwise constitute a prohibited gathering may be present for the purpose of transiting through the space; or

Example: Forrest Place, Perth

- (o) in an indoor space where a gathering of persons which would otherwise constitute a prohibited gathering may be present for the purpose of transiting through the space; or

Examples: Perth Busport; an elevator or lift

- (p) in an indoor space or an outdoor space where everyone in the gathering is a member of the same **household**; or
- (q) at a formerly affected place (including, for the avoidance of doubt, a high capacity hospitality venue) or a hairdressers or barbershop which is being used to provide a service or services described in paragraph 15(b); or

Note: gathering requirements for formerly affected places are imposed by paragraphs 12 and 13

- (r) in or on a vehicle (including a **motor vehicle**, boat or aircraft), unless the vehicle is being used for the dominant purpose of serving or consuming food or drink; or
- (s) specified in writing as exempt from this direction by me (whether conditionally or unconditionally), or someone authorised for that purpose by me, as the State Emergency Coordinator, provided that any conditions to which the exemption is subject are complied with.

DEFINITION OF PROHIBITED ACTIVITY

15. A **prohibited activity** means any of the following activities and whether undertaken or engaged in on a for profit or not-for-profit basis:

- (a) an event, unless the organiser, or the person who owns, controls or operates the premises at which the event will be held:
 - (i) has registered the event on the **Events Register**; and
 - (ii) has an approved **COVID Event Plan**; and
 - (iii) holds or conducts the event in accordance with the approved COVID Event Plan; or

- (b) 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.

RETENTION AND RESTRICTION ON DISCLOSURE OF INFORMATION FROM REGISTERS

16. Despite the revocation of the **Former Directions**, a person:

- (a) must continue to retain information in a register which the person was required to retain by any of the Former Directions until 28 days after the day on which the revocation of the State of Emergency has effect; and

Note: this obligation to retain information is in addition to and does not affect any other obligation which a person may be under to retain information

- (b) must not use or disclose information in a register required to be retained by paragraph 16(a) of these directions except as permitted by law or required by a **relevant officer** or otherwise for the purpose of contact tracing.

OTHER DEFINITIONS

17. **Authorised officer** has the same meaning as in the Act.

18. **Bottleshop** means an area physically attached or adjacent to the premises of a business characterised as a pub, bar or club referred to in paragraph 28(a), or a hotel referred to in paragraph 28(b), that is for the sale of packaged alcohol to be consumed off the premises of the pub, bar, club or hotel.

19. **Casino** has the same meaning as in the *Casino Control Act 1984* (WA).

20. **Chief Health Officer** has the same meaning as in the *Public Health Act 2016* (WA).

21. **COVID Event Plan** means a plan in writing that:

- (a) is prepared by or on behalf of the organiser of an event;
- (b) for the purposes of preventing the spread of COVID-19, sets out the measures the organiser of the event proposes to put in place to address and mitigate any risks of the spread of COVID-19 that the event presents; and

- (c) is approved in writing, including, for the avoidance of doubt, under the Closure and Restriction (Limit the Spread) Directions (No 6), by me, or a person authorised by me for that purpose, provided that such approval may be subject to terms and conditions, which may include a **COVID Safety Marshal Condition**.

Note: at the time of making these directions, a template COVID event plan and information about preparing COVID event plans are provided at the following website: www.wa.gov.au/covideventplan.

22. **COVID Safety Marshal Condition** means a condition on an approved COVID Event Plan that:

- (a) requires the presence of a specified number of **COVID Safety Marshals** at the event; and
- (b) requires those COVID Safety Marshals to perform certain specified functions at the event.

23. **COVID Safety Marshal** means a person who meets the criteria specified by me on 16 September 2020 for a COVID Safety Marshal under the Closure and Restriction (Limit the Spread) Directions (No 6) as amended or replaced by me from time to time, and is engaged by the organiser of an event to carry out functions under the COVID Event Plan approved for the event.

24. **Emergency officer** has the same meaning as in the *Public Health Act 2016* (WA).

25. **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.

26. **Event** means any gathering of more than 500 patrons, whether in public or in private, unless the gathering:

- (a) falls within the terms of an existing approval (in effect at the date on which this paragraph of these directions comes into effect) under section 178 of the *Health (Miscellaneous Provisions) Act 1911* (WA); or
- (b) is a gathering of a kind described in paragraph 14(a) to (p) and 14(r).

Note: for the avoidance of doubt, an event includes, but is not limited to any event that requires approval under sections 176 or 178 of the Health (Miscellaneous Provisions) Act 1911 (WA) or regulation 9 of the Health (Public Buildings) Regulations 1992 (WA), and whether or not that event is at a formerly affected place.

27. **Events Register** means the register of events hosted by the Department of Health on its official website and at the time of commencement of this direction found at https://ww2.health.wa.gov.au/en/Articles/A_E/Events-registration.
28. **Formerly affected place** means any one of the following, whether operated on a for profit or not-for-profit basis:
- (a) 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**); or
 - (b) 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; or
 - (c) 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; or
 - (d) a cinema (including a drive-in cinema or outdoor cinema); or
 - (e) an **entertainment venue of any other kind**; or
 - (f) a restaurant or café (including premises selling food or drink in a food court);
or
 - (g) a **place of worship**; or
 - (h) an auction house; or
 - (i) a beauty parlour or salon (other than a hairdressers or barbershop); or
 - (j) a nail salon; or
 - (k) a tattoo parlour; or
 - (l) a spa; or
 - (m) a massage parlour; or
 - (n) a gaming or gambling venue; or

- (o) adult entertainment premises (including but not limited to strip clubs, brothels and sex on premises venues); or
- (p) 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); or
- (q) a play centre, whether indoors or outdoors; or
- (r) a community, recreation or youth centre or facility (including but not limited to community halls, clubs, Returned and Services League facilities and Police and Citizens Youth Clubs); or

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

- (s) a sauna; or
- (t) a bathhouse; or
- (u) a swimming pool, whether indoors or outdoors; or
- (v) a gallery; or
- (w) a museum; or
- (x) an historic site; or
- (y) a library; or
- (z) a playground; or
- (aa) a skate park; or
- (bb) an outdoor gym; or
- (cc) Perth Zoo; or

Note: Perth Zoo was not closed under previous Closure and Restriction (Limit the Spread) Directions or their predecessors, but is included as a formerly affected place for the purposes of these directions

- (dd) a casino; or
- (ee) a nightclub.

29. **Former Directions** means the Closure and Restriction (Limit the Spread) Directions (No 3), the Closure and Restriction (Limit the Spread) Directions (No 4), the Closure and Restriction (Limit the Spread) Directions (No 5) and the Closure and Restriction (Limit the Spread) Directions (No 6).

30. **High capacity hospitality venue** means a formerly affected place which is:

- (a) 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); or
- (b) 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; or
- (c) a casino; or
- (d) a cinema (including a drive-in cinema or outdoor cinema); or
- (e) a nightclub; or
- (f) an entertainment venue of any other kind; or
- (g) adult entertainment premises (including but not limited to strip clubs, brothels and sex on premises venues); or
- (h) a restaurant or café (including premises selling food or drink in a food court); or
- (i) a gaming or gambling venue,

and has 1,000 square metres or more of space (excluding **non-publicly accessible space**), irrespective of whether that space is comprised of one or more undivided indoor or outdoor spaces or of one or more undivided indoor and outdoor spaces.

31. **Household** means two or more persons who usually reside at the same place, irrespective of whether those persons are related to each other.

Example 1: four university students who share a house are members of the same household, even though they are not related to each other.

Example 2: seven members of a family who live in the same house are members of the same household even though more than 2 generations live in that house (such as grandparents, parents and children).

Example 3: three members of a family who live in the same house and a boarder who usually resides there are members of the same household, even though only some of them are related to each other.

Example 4: a child who usually moves between the child's father's home and the child's mother's home on a week-about basis is part of the father's household when the child is living with the father and is part of the mother's household when the child is living with the mother.

32. **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.
33. **Main arena** means that part of HBF Stadium located at Stephenson Avenue, Mount Claremont shown as the main arena in the map attached to the *Closure and Restriction (Limit the Spread) Amendment Directions* given on 18 July 2020.
34. **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).
35. **Non-publicly accessible space** means space which is not ordinarily open to the public or used by the public.
36. **Outdoor gym** means an outdoor space used for, and equipped with, facilities or equipment for exercise.
37. **Outdoor space** means a space that is not an indoor space.
38. **Patron** means a person who is not **staff** (and for the avoidance of doubt includes spectators).
39. **Place of worship** means premises used for religious activities such as a chapel, church, mosque, synagogue or temple.
40. **Playground** means an outdoor space used for, and equipped with facilities for, recreation, especially by children.
41. **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.
42. **Public place** means premises that are open to the public, or are used by the public whether or not for payment of money or other consideration, whether or not the place is ordinarily so open or used and whether or not the public to whom it is open consists of only a limited class of persons.
43. **Relevant officer** means an **authorised officer**, an **emergency officer** or a **responsible officer**.
44. **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.
45. **Responsible officer** means:
- (a) an officer, employee or contractor of the Department of Health; or
 - (b) an officer, employee or contractor of a health service provider, as that term is defined by section 6 of the *Health Services Act 2016* (WA); or
 - (c) any other person authorised by the **Chief Health Officer** orally or in writing to require the production for inspection or to inspect, or both, a written register that is described in paragraph 16.
46. **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>

47. **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 15(b)); 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>

48. **Seated capacity**, in relation to a seated entertainment space, means the maximum number of patrons who can be seated in fixed seating at the seated entertainment space as at 19 October 2020.

49. **Seated entertainment space** means a single undivided indoor space or a single undivided outdoor space, when that space is being used for a seated performance or seated entertainment that is ticketed, whether on a for profit or not-for-profit basis, and that:

- (a) contains fixed seating; and

- (b) was, for a period either immediately prior to 15 March 2020 or immediately prior to these directions coming into effect, regularly used for seated performances or seated entertainment; and
- (c) is or is in a formerly affected place, other than a place of worship, that is:
 - (i) a cinema; or
 - (ii) an entertainment venue of any other kind, including:
 - (A) a theatre; or
 - (B) a concert hall; or
 - (C) an auditorium; or
 - (D) an amphitheatre; or
 - (E) a comedy lounge; or
 - (F) a performing art centre; or
 - (G) an entertainment centre.

50. **Skate park** means a facility specifically designed for skateboarding, rollerskating or rollerblading, containing structures such as ramps and basins.

51. **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.

52. **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).

53. **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

54. 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.



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Christopher John Dawson
Commissioner of Police and State Emergency Coordinator

22 October 2020 1233 hours