

EMERGENCY MANAGEMENT ACT 2005 (WA)

Sections 67, 71 and 72A

SAFE TRANSITION FOR WESTERN AUSTRALIA DIRECTIONS (NO 2)

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 am 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, closure and face covering requirements that came into effect on 23 and 24 April 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 (No 2)**.

COMMENCEMENT

3. These directions come into effect at 12.01 am on Tuesday, 27 April 2021 and continue in effect until 12.01 am on Saturday, 1 May 2021 or such other further period specified in writing by me.

OPERATION

4. Subject to paragraph 20, these directions apply in the **affected area** only.

5. The Gathering and Activities Directions (No 2) and the **Major Stadium Directions** also apply in the affected area, except to the extent that they are modified by, or otherwise inconsistent with, a provision of these directions.
6. While these directions remain in effect, any requirement in the Gathering and Activities Directions (No 2) to allow 2 square metres of space per person must be read to be a requirement to allow 4 square metres of space per person.

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 immediately prior to 24 April 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 Gathering and Activities Directions (No 2) or the Major Stadium Directions impose a different or lesser obligation.

Example 1: The Gathering and Activities Directions (No 2) allow a gathering to be held at a restaurant that offers seated service only provided that the gathering does not exceed 75% of the seated capacity of the restaurant. These directions impose a 4 square metre rule and a cap of 20 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 Gathering and Activities Directions (No 2) 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 4 square metre rule and 20 patron cap will apply even if a COVID Event Plan is in place.

Special rules for certain places

Note: Certain places, including those that are "relevant places" under the Gathering and Activities Directions (No 2), are subject to special rules under these directions. The casino, nightclubs, fitness venues, universities and higher education facilities (other than TAFE) are closed under paragraph 7. The places listed in Schedule 1 are subject to the requirements in paragraph 11 instead of the requirements that apply to them as relevant places in the Gathering and Activities Directions (No 2). Any relevant places which are not the casino, nightclubs,

fitness venues, universities and higher education facilities (other than TAFE) or a Schedule 1 place continue to be subject to the provisions that apply to them as relevant places in the Gathering and Activities Directions (No 2), except that any requirement in those directions to allow 2 square metres of space per person must be read to be a requirement to allow 4 square metres of space per person.

Closure of certain premises

7. The owner, occupier or person apparently in charge of:
- (a) a **casino**; or
 - (b) a **nightclub**; or
 - (c) a **fitness venue**; or
 - (d) a university or other **higher education facility**, but not TAFE, and except to the extent that the university or higher education facility provides online learning, 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 paragraphs 7 and 8.

Professional sport

8. The owner, occupier or person apparently in charge of a **major stadium** must close that place to the public other than for a sporting event or scheduled training session that is approved by me, or a person authorised by me for the purpose, as the State Emergency Coordinator, whether conditionally or unconditionally, provided that any conditions to which the approval is subject are complied with.
9. Any approval given under paragraph 8 must include a condition that no **patrons** or spectators be present at the sporting event or scheduled training session to be held at the major stadium.
10. Notwithstanding anything in these directions, a **professional sportsperson** and either or both of a coach or other person appropriately trained and qualified to provide support to the professional sportsperson, may attend the professional sportsperson's dedicated training facility, except for any part of the facility that is an indoor gym or fitness centre, for the purpose of undertaking any training or related exercise and physical conditioning,

including any individual training, group or full squad training, drills or exercises or practice matches.

Special gathering rules for Schedule 1 places

11. 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;
- (c) if the business is 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**), may only open if it provides meals to patrons, and drinks, whether alcoholic or non-alcoholic, are served or provided for consumption only as ancillary to a meal;
- (d) must not allow a gathering of more than 20 patrons at the place at the same time (excluding any person present to collect a takeaway meal or drink) except where the gathering is for the purpose of a sporting activity conducted outdoors and in accordance with paragraph 44(b) and, for the avoidance of doubt:
 - (i) where the place comprises multiple single undivided spaces (whether indoors or outdoors) no more than 20 patrons in total may be in those spaces at any one time unless:
 - (A) the place is an **entertainment venue** comprising multiple cinemas, in which case each cinema may have up to 20 patrons in the cinema at any one time; or
 - (B) the place comprises multiple swimming pools (whether indoor or outdoor), in which case each swimming pool may have up to 20 patrons in the swimming pool at any one time;
 - (ii) where there are multiple Schedule 1 places within the boundaries of a larger Schedule 1 place, there may be 20 patrons in total in each of the Schedule 1 places;

- (e) 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.
12. Where a place is not a Schedule 1 place (**Place A**) but within the boundaries of Place A there is one or more Schedule 1 places, then those parts of Place A that contain a Schedule 1 place will be subject to the limitations set out in paragraph 11, but the part or parts of Place A that is or are not a Schedule 1 place will continue to be governed by any requirements on gatherings which are imposed on it by the Gathering and Activities Directions (No 2) (as modified by these directions).

Example: A large area of parkland may have within it a café, a clubhouse and an additional community building that houses a library and an art gallery. The clubhouse and café would each need to comply with the 4sqm rule and the 20 patron cap. Even though the art gallery and the library are in the same building, both the art gallery and library can have 20 patrons each. The parkland would remain subject to the 4sqm rule and any caps on the size of gatherings that apply to it, regardless of the number of people in the buildings on the land.

13. For the avoidance of doubt, in determining the space in a single undivided indoor space or a single undivided outdoor space, **non-publicly accessible space** should be excluded.

Prohibited activities in the affected area

14. A person who owns, controls or operates **premises** in the affected area must not allow a **prohibited activity** to occur on the premises.
15. A person must refrain from organising, undertaking or engaging in a prohibited activity in the affected area, except to the extent that the person is organising a prohibited activity to be held outside of the period referred to in paragraph 3.
16. A person must not hold or conduct a prohibited activity in the affected area.
17. A person must not attend a prohibited activity in the affected area.

Face coverings

18. 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, unless 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 19 and is carrying a face covering (or, in the case of paragraph 19(g) or (h), the person has access to a face covering close by) and resumes wearing the face covering as soon as reasonably practicable after the person no longer falls within one of those exceptions.

19. 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;
- (i) the person is travelling in a motor vehicle and either is the sole occupant of that vehicle or is travelling in the vehicle with other persons provided that all the occupants of the vehicle are members of the same **household**;
- (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) the person is working in the absence of others in an enclosed indoor space;
- (p) not wearing a face covering is otherwise required or authorised by law; or
- (q) wearing a face covering is not safe in all the circumstances.

20. A person who was in the affected area at any time after 12.01 am on 17 April 2021 or enters the affected area after these directions come into effect and has travelled or then travels outside of the affected area must comply with the requirements of paragraph 18 while they are outside the affected area as if they remained in the affected area.

Note: A person who is required by paragraph 18 to wear a mask is able to rely on any exceptions under paragraph 19 to the same degree that they could if they were in the affected area.

21. The requirements in paragraphs 18 to 20 are intended to apply despite any other direction that imposes a requirement to wear a face covering and to the extent of any inconsistency between those directions and these directions, these directions prevail.

DEFINITIONS

22. **Affected area** means the area comprising:
- (a) the Metropolitan region described in Schedule 3 to the *Planning and Development Act 2005 (WA) (Planning Act)*;
 - (b) the Peel Region described in item 6 of Schedule 4 to the Planning Act; and
 - (c) **Rottnest Island**.
23. **Beauty-related venue** means:
- (a) a beauty parlour or salon;
 - (b) a nail salon;
 - (c) a tattoo parlour;
 - (d) a spa;
 - (e) a massage parlour;
 - (f) a hairdresser;
 - (g) a barber shop;
 - (h) a sauna; or
 - (i) a bathhouse.
24. **Bottleshop** means an area physically attached or adjacent to the premises of a business characterised as a hotel referred to in item 1 of Schedule 1, or a pub, bar or club referred to in item 1 of Schedule 2, that is for the sale of packaged alcohol to be consumed off the premises of the hotel, pub, bar or club.
25. **Casino** has the same meaning as in the *Casino Control Act 1984 (WA)*.
26. **COVID Event Plan** has the same meaning that it has in the Gathering and Activities Directions (No 2).
27. **Entertainment venue** means any entertainment venue of any kind that is not otherwise specifically provided for in these directions, including:
- (a) a cinema (including a drive-in cinema or outdoor cinema);
 - (b) an amusement park or arcade;
 - (c) a **wildlife park**;

- (d) a gaming or gambling venue; and
 - (e) adult entertainment premises (including, but not limited to, strip clubs, brothels and sex on premises venues).
28. **Face covering** means a disposable surgical mask or fitted cloth mask that covers the nose and mouth (but does not include a face shield).
29. **Fitness venue** means any of the following venues that are indoors:
- (a) a gym;
 - (b) a sporting centre;
 - (c) a wellness centre;
 - (d) a health club;
 - (e) a fitness centre (including a centre offering yoga, barre, pilates, aerobics, dancing or spin facilities); or
 - (f) a boot camp.
30. **Higher education facility** includes a vocational education facility or technical college.
31. **Household** means two or more persons who usually reside together at the same place, except a place that is a residential college or student accommodation, including a boarding school, irrespective of whether those persons are related to each other.
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. **Major stadium** means each of the following stadiums:
- (a) HBF Park located at 310 Pier Street, Perth;
 - (b) that part of HBF Stadium located at Stephenson Avenue, Mount Claremont shown as the main arena on the map attached as Schedule 1 to the Gatherings and Activities (HBF Stadium – Main Arena) Directions (No 2);
 - (c) Optus Stadium located at 333 Victoria Park Drive, Burswood;
 - (d) RAC Arena located at 700 Wellington Street, Perth.

34. **Major Stadium Directions** means each of the following directions, as amended or replaced from time to time:
- (a) Gatherings and Activities (HBF Park) Directions (No 2);
 - (b) Gatherings and Activities (HBF Stadium – Main Arena) Directions (No 2);
 - (c) Gatherings and Activities (Optus Stadium) Directions (No 2);
 - (d) Gatherings and Activities (RAC Arena) Directions (No 2).
35. **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).
36. **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.
37. **Non-publicly accessible space** means space which is not ordinarily open to the public or used by the public.
38. **Outdoor space** means a space that is not an indoor space.
39. **Patron** means a person who is not **staff** (and for the avoidance of doubt includes spectators).
40. **Place of worship** means premises used for religious activities such as a chapel, church, mosque, synagogue or temple.
41. **Premises** includes:
- (a) land (whether vacant or not);
 - (b) land covered by water, whether permanently or temporarily or from time to time;
 - (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. **Private gathering** means an organised or planned activity for a common recreational purpose, other than a sporting activity, whether it takes place 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.

43. **Professional sportsperson** means a person who makes their primary living by playing a professional sport.

44. **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, including training, except if there are no spectators other than as many adults as are reasonably necessary to supervise the sporting activity in the case of a sporting activity that involves participants under the age of 16 years;
- (c) a wedding, other than to the extent that, excluding the celebrant and staff, the wedding involves no more than:
 - (i) 20 persons; or
 - (ii) 100 persons if approved in writing by the Chief Health Officer, or a person authorised by him for that purpose, whether conditionally or unconditionally, provided that:
 - (A) any conditions to which the approval is subject are complied with; and
 - (B) any necessary **safety plan** or plans has or have been completed;
- (d) a funeral, other than to the extent that, excluding those persons whose presence is necessary to conduct the funeral, the funeral involves no more than:
 - (i) 20 persons; or

- (ii) 100 persons if approved in writing by the Chief Health Officer, or a person authorised by him for that purpose, whether conditionally or unconditionally, provided that:
 - (A) any conditions to which the approval is subject are complied with; and
 - (B) any necessary safety plan or plans has or have been completed;
- (e) a **private gathering** whether indoors or outdoors, if more than 20 persons are involved in the activity at any one time, unless the activity takes place at a Schedule 1 place;

Note: The activities described in paragraph 44(a) to (e), when not prohibited by this paragraph, are still subject to the prohibited gathering rules in these directions or the Gathering and Activities Directions (No 2) and the Major Stadium Directions, as applicable, in addition to any requirements imposed by this paragraph.

- (f) a gathering of more than 20 persons at a private home, unless all persons at the gathering are members of the same household.

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

- (a) completion of a safety plan; or
- (b) in the case of a place that is able to open to the public under these directions in a manner or to an extent that is different to the manner or extent that it could open immediately prior to these directions coming into effect, updating of a safety plan; and
- (c) 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.

46. **Rottnest Island** has the same meaning as in section 4 of the *Rottnest Island Authority Act 1987* (WA).
47. **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;
 - (b) required hygiene standards will be maintained;
 - (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.
48. **Safety plan certificate** means a certificate which:
- (a) states the number of patrons who can be accommodated at the place; 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: Information about preparing safety plans, as well as safety plan certificates, are provided at the following website:

<https://www.wa.gov.au/government/document-collections/covid-19-coronavirus-covid-safety-plans-and-guidelines>

49. **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.
50. **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;
 - (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 broadcasting or recording the service.

51. **Sufficient dividing structure** means a wall or other structure which:

- (a) substantially comprises material that is impervious to air flow;
- (b) is capable of being cleaned or sanitised;
- (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).

52. **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.

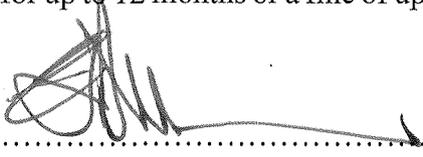
Example: Caversham Wildlife Park is an amusement park which falls within this definition of a wildlife park.

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

53. 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

26 April 2021 2030 hours

SCHEDULE 1

Schedule 1 places

1. 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;
2. a business characterised as a pub, bar or club that supplies alcohol under a licence granted under the *Liquor Controls Act 1988* (WA) (but not including any part of the business constituted by a bottleshop);
3. a restaurant or café (including premises selling food or drink in a food court);
4. a place of worship;
5. an entertainment venue;
6. an auction house;
7. a **beauty-related venue**;
8. a play centre, whether indoors or outdoors;
9. 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);
10. a swimming pool, whether indoors or outdoors;
11. a gallery;
12. a museum;
13. an historic site;
14. a library;
15. Perth Zoo.