

EMERGENCY MANAGEMENT ACT 2005 (WA)

Sections 61, 67, 72A

COVID RESTRICTIONS (SEATED SERVICE) 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 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 pursuant to my powers as a police officer under section 71 of the Act and 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 61, 67 and 72A of the Act.

PREAMBLE

1. The purpose of these directions is to impose requirements on the manner of service at certain venues in order to prevent, control or abate the risks associated with the emergency presented by the pandemic caused by COVID-19 following the detection of positive cases of COVID-19 in the Western Australian community and to otherwise limit the spread of COVID-19.

CITATION

2. These directions may be referred to as the COVID Restrictions (Seated Service) Directions.

COMMENCEMENT

3. These directions come into effect at 6.00pm on Friday 24 December 2021 and continue in effect until 6.00am on Tuesday 28 December 2021.

AUTHORISATION

4. For the avoidance of doubt, in addition to and without limiting any other authorisation any **relevant officer** may have to do so, all relevant officers are authorised under

section 61 of the Act to give any direction to a person for the purpose of giving effect to these directions.

DIRECTIONS

Hospitality venues to provide seated service only

5. In addition to any other requirement imposed by another **direction**, a person who owns, controls, operates or is otherwise apparently in charge of, a **hospitality venue** in the **affected area** must only provide:

- (a) **seated service**; or
- (b) **take-away service**,

and must not allow food or beverages (including alcohol) to be consumed at the hospitality venue other than by a **patron** who is seated.

Patrons at hospitality venues

6. A patron at a hospitality venue in the affected area must not consume food or beverages (including alcohol) unless they are seated while consuming the food or beverages.

INTERPRETATION

7. Unless specified otherwise, any reference in these directions to any other direction is deemed to be a reference to that direction as amended or replaced from time to time.

DEFINITIONS

8. **Affected area** means:

- (a) the Metropolitan region described in Schedule 3 to the *Planning and Development Act 2005* (WA);
- (b) the Peel Region described in item 6 of Schedule 4 to the *Planning and Development Act 2005* (WA); and
- (c) Rottnest Island, as described in section 4 of the *Rottnest Island Authority Act 1987* (WA).

9. **Authorised officer** has the same meaning that it has in the Act.
- Note: At the time of making these directions, all **police officers** are **authorised officers**, and paragraph 4 ensures that relevant officers are also authorised officers for the purposes of these directions.*
10. **Bottleshop** means an area physically attached or adjacent to the premises of a business falling within paragraph (a) or (b) of the definition of hospitality venue and which is for the sale of packaged alcohol for consumption off the premises of that business.
11. **Direction** includes a quarantine direction and any other direction under the Act or the *Public Health Act 2016* (WA), whether the direction is given orally or in writing.
12. **Emergency officer** has the same meaning that it has in the *Public Health Act 2016* (WA).
13. **Hospitality venue** means:
- (a) a business characterised as a pub, bar or club (but not a **nightclub**) 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 restaurant or café (including **premises** selling food or beverages in a food court).
14. **Nightclub** means a place that has a nightclub licence under section 42 of the *Liquor Control Act 1988* (WA) or another place that has been specified in writing by me, or a person authorised by me for the purposes, to be a nightclub for the purposes of the COVID Safe (Phase 5) Directions (No 2) or the COVID Restrictions (Gatherings and Related Measures) Directions.
15. **Patron** means a person who is not **staff** and, for the avoidance of doubt, includes spectators.
16. **Police officer** means a person appointed under Part I of the *Police Act 1892* (WA) to be a member of the Police Force of Western Australia.

17. **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, including a vessel.
18. **Relevant officer** means:
- (a) an **authorised officer**; or
 - (b) an **emergency officer**; or
 - (c) a **responsible officer**.
19. **Responsible officer** means:
- (a) an officer, employee or contractor of the Department of Health; or
 - (b) an officer, employee or contractor of a health services provider; or
 - (c) any other person authorised by the Chief Health Officer orally or in writing to perform a function for the purposes of these directions.
20. **Seated service** means service to seated patrons or service where patrons may order at a counter or bar but must consume any food or beverages whilst seated.
21. **Staff** means a person who has work responsibilities at a place as an officer or employee or in some other capacity (including a voluntary capacity) and is present at the place in that capacity.
22. **Take-away service** means service to patrons where the food or drink supplied is to be consumed at a place other than the hospitality venue.

PENALTIES

It may be an offence to fail to comply with 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

24 December 2021 1453 hours