

## EMERGENCY MANAGEMENT ACT 2005 (WA)

### Sections 61, 67, 71 and 72A

## COVID RESTRICTIONS (GATHERINGS AND RELATED MEASURES) 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 (relating to the closure of certain places) 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 close certain **premises**, to regulate certain gatherings, and to place restrictions on certain places in the **affected area** 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 following the detection of a positive case 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 (Gatherings and Related Measures) Directions.

### COMMENCEMENT

3. These directions come into effect at 6.00pm on Thursday 23 December 2021 and continue in effect until 6.00am on Tuesday 28 December 2021.

## **OPERATION**

4. These directions apply in addition to any requirements imposed by other **directions** including the COVID Safe (Phase 5) Directions (No 2), and to the extent of any inconsistency, these directions prevail.

## **DIRECTIONS**

### **PART I: CLOSURES AND REQUIREMENTS FOR GATHERINGS IN THE AFFECTED AREA**

#### **Closure of nightclubs**

5. A person who owns, controls or operates a **nightclub** in the affected area must close that place to the public.

#### **Prohibition on music events and dancing**

6. Unless otherwise permitted by these directions, a person who owns, controls or operates premises in the affected area must not allow the premises to be used for a **music event**.
7. A person must refrain from undertaking, engaging in, holding, conducting or attending a music event in the affected area.
8. A person must not engage in dancing at premises in the affected area other than:
  - (a) if it occurs at a wedding; or
  - (b) at a **home** where the participants are all members of the same **household**.
9. A person who owns, controls or operates premises in the affected area must not allow a person to engage in dancing at those premises other than where it occurs in the circumstances set out in paragraphs 8(a) and 8(b).

### **PART II: FACE COVERING REQUIREMENTS**

#### **Requirement to wear a face covering in certain places**

10. Subject to paragraph 11, a person in the affected area must wear a **face covering** at all times while they are:
  - (a) in an **indoor space**; or
  - (b) at or in a residential aged care facility, whether in an indoor space or **outdoor space**; or

- (c) in a vehicle of any kind, (including public transport, taxi and rideshare services).

### **Exemptions from face covering requirements**

11. A person is not required to wear a face covering where:

- (a) the person is within or at their home unless another direction requires them to wear a mask at home; or
- (b) the person is attending a gathering of persons at a home, provided that the gathering is not prohibited by these directions; or
- (c) the person is a child 12 years of age or under, except at any time the child is attending school in Year 7 and above; or
- (d) the person is at the time attending school as a student in Year 6 or below; or
- (e) the person has a physical, developmental or mental illness, injury, condition or disability which makes wearing a face covering unsuitable; or
- (f) the person is communicating with a person who is deaf or hard of hearing and visibility of the mouth is essential for communication; or
- (g) 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; or
- (h) the person needs to temporarily remove their face covering so as to enable another person to appropriately perform their occupation; or
- (i) 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; or
- (j) the person is at that time consuming food, drink or medicine; or
- (k) the person is asked to remove the face covering to ascertain identity; or
- (l) 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); or
- (m) the person is working in the absence of others in an enclosed indoor space (unless and until another person enters that indoor space); or

- (n) the person is a resident in a residential aged care facility; or
- (o) the person is engaged in an activity involving swimming; or
- (p) the person is running or jogging or otherwise engaged in some form of strenuous or vigorous exercise or physical activity; or
- (q) the person is travelling in a 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; or
- (r) 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; or
- (s) the person is directed by a judicial officer or tribunal member in proceedings in a court or tribunal to remove their face covering to ensure the proper conduct of those proceedings; or
- (t) 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.*

- (u) not wearing a face covering is otherwise required or authorised by law; or
- (v) wearing a face covering is not safe in all the circumstances,

provided that, where a person is relying on an exemption under subparagraph (f) to (v), that person resumes wearing the face covering as soon as reasonably practicable after the person no longer falls within the relevant exemption.

### **PART III: EXTENDED APPLICATION OF DIRECTIONS BEYOND THE AFFECTED AREA**

#### **Requirements for persons who leave the affected area**

12. A person who was in the affected area at any time after 12.01am on 16 December 2021 and travels or has travelled outside of the affected area must, for a period of 14 days after the date and time that the person was last in the affected area, comply with paragraph 10 of these directions whilst they are outside the affected area as if they were in the affected area.

## AUTHORISATION

13. 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.

## INTERPRETATION

14. Unless specified otherwise, any reference in these directions to any other direction made by the State Emergency Coordinator is deemed to be a reference to that direction as amended or replaced from time to time.

## DEFINITIONS

15. **Affected area** means:
- (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, as described in section 4 of the *Rottnest Island Authority Act 1987* (WA).
16. **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 13 ensures that relevant officers are also authorised officers for the purposes of these directions.*
17. **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.
18. **Emergency officer** has the same meaning that it has in the *Public Health Act 2016* (WA).
19. **Excluded gathering** means a gathering where members of the community are gathering for the purposes of participating in singing Christmas carols, including carols by candlelight.
20. **Face covering** means a disposable surgical mask or fitted cloth mask that covers the nose and mouth (but does not include a face shield).

21. **Home** means the premises or place where a person usually resides or other premises (such as a hotel or short stay accommodation) at which a person is able to reside.
22. **Household** means two or more persons who usually reside at the same home, irrespective of whether those persons are related to each other.
23. **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.
24. **Music event** means:
- (a) any gathering that is listed in Schedule 1; or
  - (b) any gathering of more than 500 **patrons**, whether in public or in private, and whether undertaken or engaged in on a for profit or not for profit basis which features the playing of recorded music or live performances involving singing or dancing for the purposes of entertainment unless the gathering:
    - (i) falls within the terms of an existing approval that was in place as at 22 June 2021 under section 178 of the *Health (Miscellaneous Provisions) Act 1911* (WA); or
    - (ii) is an **excluded gathering**.
25. **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 the State Emergency Coordinator, or a person authorised by the State Emergency Coordinator for that purpose, to be a nightclub for the purposes of these directions.
26. **Outdoor space** means any space that is not an indoor space.
27. **Patron** means a person who is not **staff** and, for the avoidance of doubt, includes spectators.
28. **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.
29. **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.
30. **Relevant officer** means:
- (a) an authorised officer; or
  - (b) an **emergency officer**; or
  - (c) a **responsible officer**.
31. **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.
32. **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; and
  - (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.

33. **Sufficient dividing structure** means a wall or other structure which:
- (a) substantially comprises material that is impervious to air flow; and
  - (b) is anchored to the ground or floor in a way which ensures that it cannot be lifted or pushed apart; and
  - (c) 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).*

## **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

23 December 2021 1732 hours



## SCHEDULE 1

24 Dec 2021	The Left Bank Xmas Eve, Left Bank, East Fremantle
24 Dec 2021	Ice Cream Factory Festival Roe Street, Northbridge
26 Dec 2021	Banana Social Event, Elizabeth Quay
26 Dec 2021	Ice Cream Factory Festival Roe St, Northbridge
26 Dec 2021	Breakfest 2021, Belvoir Amphitheatre, Upper Swan
26 Dec 2021	Cali Beach Club / Boxing Day, Fremantle
27 Dec 2021	Euphoria, Fremantle