

## **EMERGENCY MANAGEMENT ACT 2005 (WA)**

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

### **AUSTRALIA DAY (FACE MASK) 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, Gary Elmars Dreibergs, Acting Commissioner of Police and State Emergency Coordinator, 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 require the wearing of a **face covering** at all **Australia Day events** 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 **Australia Day (Face Mask) Directions**.

#### **COMMENCEMENT**

3. These directions come into effect upon signing.

#### **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**

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

5. Subject to paragraph 7, during the period 8am to midnight on 26 January 2022, a person in the **affected area** must wear a face covering at all times while they are at an **Australia Day event** at an **outdoor public space**.
6. A person must not, in the affected area, enter or remain at an Australia Day event in an outdoor public space, unless the person is wearing a face covering or one or more of the face covering exceptions in paragraph 7 apply to that person at that time.

### **Exceptions from face covering requirements**

7. A person is not required to wear a face covering where:
  - (a) the person is a child 12 years of age or under; 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 communicating with a person who is deaf or hard of hearing and visibility of the mouth is essential for communication; or
  - (d) the nature of a person's occupation means that wearing a face covering at that time is impractical to perform that occupation or creates a risk to their health and safety; or
  - (e) the person needs to temporarily remove their face covering so as to enable another person to appropriately perform their occupation; or
  - (f) 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
  - (g) the person is at that time consuming food, drink or medicine; or
  - (h) the person is asked to remove the face covering to ascertain identity; or
  - (i) 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
  - (j) the person is a resident in a residential aged care facility or residential disability facility; or

- (k) the person is a patient in a hospital; or
- (l) the person is engaged in an activity involving swimming; or
- (m) the person is running or jogging or otherwise engaged in some form of strenuous or vigorous exercise or physical activity; or
- (n) not wearing a face covering is otherwise required or authorised by law; or
- (o) wearing a face covering is not safe in all the circumstances,

provided that:

- (p) a person is only excepted from the requirement to wear a face covering under subparagraph (b) if the person produces a medical certificate that certifies that the person has an illness, injury, condition or disability that makes wearing a face covering unsuitable:
  - (i) upon request by an **authorised officer**, and
  - (ii) if requested to do so whilst at or on any premises, by the **responsible person** for those premises or by the **staff** of the responsible person; and
- (q) where a person is relying on an exception under subparagraph (c) to (n), that person resumes wearing the face covering as soon as reasonably practicable after the person no longer falls within the relevant exception.

## AUTHORISATION

8. 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

9. 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**

10. **Australia Day event** means any gathering of 100 or more people, whether undertaken or engaged in on a for profit or not for profit basis, for the primary purpose of celebrating Australia Day.
11. **Affected area** means:
  - (a) the Metropolitan region described in Schedule 3 to the *Planning and Development Act 2005* (WA); and
  - (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); and
  - (d) the South West region described in item 8 of Schedule 4 to the *Planning and Development Act 2005* (WA).
12. **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 8 ensures that relevant officers are also authorised officers for the purposes of these directions.*
13. **Direction** includes any direction under the Act or the *Public Health Act 2016* (WA), whether the direction is given orally or in writing.
14. **Emergency officer** has the same meaning that it has in the *Public Health Act 2016* (WA).
15. **Face covering** means a disposable surgical mask or fitted cloth mask that covers the nose and mouth (but does not include a face shield).
16. **Outdoor public space** means any space to which people normally have unrestricted access and right of way that is not an indoor space.
17. **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.
18. **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.

19. **Relevant officer** means:

- (a) an authorised officer; or
- (b) an **emergency officer**; or
- (c) a **responsible officer**.

20. **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.

21. **Responsible person**, in relation to particular premises, means the occupier or other person apparently in charge of those premises.

22. **Staff** means a person who has responsibilities at a place as an officer or employee or in some other capacity (including a voluntary capacity).

## 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.



Gary Elmars Dreibergs  
Acting Commissioner of Police and State Emergency Coordinator

25 January 2022 1235 hours