

PUBLIC HEALTH ACT 2016 (WA)

Sections 157(1)(k) and 190(1)(p)

RAPID ANTIGEN TEST (RESTRICTIONS ON SALE AND SUPPLY) DIRECTIONS

The World Health Organization declared COVID-19 a pandemic on 11 March 2020.

On 23 March 2020, the Minister for Health declared a public health state of emergency with effect from 1.30 pm on 23 March 2020 in respect of COVID-19 pursuant to section 167 of the *Public Health Act 2016* (WA) (**Act**). On 22 September 2021, the Minister for Health declared a further public health state of emergency with effect from 4.25 pm on 22 September 2021 in respect of COVID-19 pursuant to section 167 of the Act. The public health state of emergency applies to the State of Western Australia.

I, Dr Andrew Robertson, Chief Health Officer, authorised as an emergency officer under section 4 of the Act to exercise any of the emergency powers while the public health state of emergency declaration in respect of COVID-19 is in force, consider it reasonably necessary to give the following directions to all persons in Western Australia to prevent, control or abate the serious public health risk presented by COVID-19.

PREAMBLE

1. The purpose of these directions is to place limitations on the volume of **rapid antigen tests** which may be supplied in certain transactions so as to facilitate proper management of supply of rapid antigen tests.

CITATION

2. These directions may be referred to as the **Rapid Antigen Test (Restrictions on Sale and Supply) Directions**.

COMMENCEMENT

3. These directions come into effect at 00.01am on Wednesday 26 January 2022.

DIRECTIONS

Limitations on Sale and Supply of Rapid Antigen Tests

4. In any **in person retail transaction** or combination of in person retail transactions, a person may only purchase or obtain for **personal use** the lesser of:

- (a) one sealed box of rapid antigen tests in their original packaging; or
 - (b) three (3) individual rapid antigen tests per member of their household up to a maximum of 10 rapid antigen tests,

in any 24 hour period.
- 5. In any **electronic retail transaction** or combination of electronic retail transactions, a person may only purchase or obtain for personal use the lesser of:
 - (a) one sealed box of rapid antigen tests in their original packaging; or
 - (b) three (3) individual rapid antigen tests per member of the person's household up to a maximum of 10 rapid antigen tests,

in any 24 hour period.
- 6. In any combination of in person retail transactions or electronic retail transactions, a person may only purchase or obtain for personal use the lesser of:
 - (a) one sealed box of rapid antigen tests in their original packaging;
 - (b) three (3) individual rapid antigen tests per member of the person's household up to a maximum of 10 rapid antigen tests,

in any 24 hour period.
- 7. A **supplier** must take all reasonable steps to ensure that the supplier only sells or supplies to a person for personal use the lesser of:
 - (a) one sealed box of rapid antigen tests in their original packaging; or
 - (b) three (3) individual rapid antigen tests per member of the person's household up to a maximum of 10 rapid antigen tests,

in any in person retail transaction or combination of in person retail transactions with that person in any 24 hour period.

DEFINITIONS

For the purposes of these directions:

- 8. **Electronic retail transaction** means a transaction undertaken for the buying or supply of products for monetary or other consideration via online services or over the internet.
- 9. **Household** means two or more persons who usually reside at the same home, irrespective of whether those persons are related to each other.
- 10. **In person retail transaction** means a transaction undertaken in person for the buying or supply of products for monetary or other consideration between a person and a supplier whether at a retail shop premises or otherwise.

11. **Personal use** means use by:

- (a) the person purchasing or obtaining a rapid antigen test or a member of their household; or
- (b) another person or a member of another household for whom the person has purchased or obtained a rapid antigen test.

Example of 11(b): a person purchasing rapid antigen tests on behalf of their neighbour is purchasing the tests for personal use.

Note: a company purchasing rapid antigen tests for the use of its employees or a government agency obtaining rapid antigen tests for use in hospitals is not purchasing or obtaining the tests for personal use.

12. **Rapid antigen test** means a medical device that:

- (a) is a single use lateral flow or immunochromatographic test kit; and
- (b) is classified as a Class 3 IVD medical device within the meaning of the *Therapeutic Goods (Medical Devices) Regulations 2002* (Cth); and
- (c) is included in the **Register**; and
- (d) has an intended purpose, accepted in relation to that inclusion in the Register, that relates to the detection of the novel coronavirus SARS-CoV-2 that causes COVID-19.

13. **Register** has the same meaning as is given to that term in the *Therapeutic Goods Act 1989* (Cth).

14. **Supplier** means a person or business who engages in the sale or supply of rapid antigen tests in the course of their business activities.

PENALTIES

It is an offence for a person to fail, without reasonable excuse, to comply with any of these directions, punishable by a fine of up to \$20,000 for individuals and \$100,000 for bodies corporate.



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Dr Andrew Robertson

Emergency Officer

25 January 2022 12:42 hours