

EMERGENCY MANAGEMENT ACT 2005 (WA)

Sections 67, 70 and 72A

COVID TRANSITION (CRITICAL WORKER) 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, now give the following directions pursuant to my powers under sections 67, 70 and 72A of the Act.

PREAMBLE

1. These directions set out requirements, including isolation and testing requirements, for a person who is a **critical worker** and is a **close contact** attending work, and their **employers**, and are for the purpose of limiting the spread of COVID-19 in Western Australia while facilitating the continuity of essential operations.

CITATION

2. These directions may be referred to as the **COVID Transition (Critical Worker) Directions**.

COMMENCEMENT

3. These directions come into effect at 6.00am on Monday 21 February 2022.

OPERATION OF THESE DIRECTIONS

4. These directions modify the operation of the COVID Transition (Testing and Isolation) Directions (No 2) in relation to critical workers during a **critical worker furlough period**.
5. During any period:
 - (a) that is not a critical worker furlough period; or
 - (b) that is a critical worker furlough period but the critical worker does not meet the requirements of paragraph 6,

the critical worker must continue to comply with the COVID Transition (Testing and Isolation) Directions (No 2).

Note: These directions do not compel a critical worker to attend work. They establish an alternative testing and isolation process for close contacts so that critical workers can attend work in certain circumstances where they would otherwise be prohibited from doing so in order to maintain critical services.

DIRECTIONS

Limited exemption from isolation requirements for certain critical workers

6. Notwithstanding the COVID Transition (Testing and Isolation) Directions (No 2), and subject to paragraph 7, during a critical worker furlough period, a critical worker who is a close contact but not a **diagnosed person** may leave their **isolation premises** solely for the purposes of attending work in their **isolation period** if:

- (a) the critical worker:
 - (i) performs a role which is and remains **registered**; or
 - (ii) is a person who is employed or contracted to work in a school including teachers, and educational support staff; and
 - (iii) has received **confirmation** from his or her employer that the employer requests the critical worker attend work during the particular critical worker furlough period, and that confirmation has not been withdrawn; and
 - (iv) has consented to attending work during their isolation period; and
 - (v) is **fully vaccinated** and:
 - (A) has provided evidence to their employer in the form of **accepted proof of vaccination** confirming that the person is fully vaccinated prior to these directions coming into effect; or
 - (B) provides accepted proof of vaccination to their employer prior to the first time that they attend work during their isolation period; and
 - (vi) does not have **symptoms**; and

- (vii) undertakes a **rapid antigen test** before leaving their isolation premises to attend work each time they propose to attend work during their isolation period and receives a **negative result** each time before leaving; and

Note: a person who receives a positive test becomes a diagnosed person and will not be able to leave their isolation premises to attend work in accordance with these directions

- (viii) reports the results of each rapid antigen test taken in accordance with subparagraph 6(a)(vii) to their employer before commencing work on each relevant day; and

(b) the critical worker's employer has:

- (i) undertaken a **critical worker mitigation assessment**; and
- (ii) truthfully and accurately completed the **critical worker registration process**; and
- (iii) updated the details provided through the critical worker registration process in the event of any change of circumstances so that they remain true and correct; and
- (iv) established a system for the recording of rapid antigen test results reported by critical workers; and
- (v) provided confirmation to the critical worker that the critical worker is requested to attend work during the particular critical worker furlough period,

provided that the requirement in subparagraphs 6(b)(ii) and 6(b)(iii) do not apply in respect of a critical worker who is employed or contracted to work in a school including teachers, and educational support staff.

Obligations on critical workers who leave their isolation premises during the isolation period

7. A critical worker who leaves their isolation premises to attend work pursuant to these directions must:
- (a) actively monitor for symptoms during their isolation period; and
 - (b) leave the workplace and return to their isolation premises immediately if they develop symptoms or become a diagnosed person; and
 - (c) notwithstanding the COVID Transition (Face Covering) Directions (No 2), subject to the **face covering exceptions**, wear a **face covering** at all times when not at their isolation premises and it is safe to do so in addition to properly utilising any other personal protective equipment that their employer reasonably requires; and
 - (d) uses reasonable endeavours to maintain a physical distance of 1.5m from other people in their workplace; and
 - (e) travel to and from their place of work (including in circumstances where subparagraph (b) applies):
 - (i) wherever practicable, alone, or only with a member or members of their own household ; and
 - (ii) in any event, not by way of bus, train or other form of mass public transport unless there is no practicable alternative available to enable the critical worker to get to or from work.

Additional obligations of employers

8. An employer must:
- (a) update the details provided as part of the critical worker registration process wherever it becomes necessary to ensure that the details provided remain true and correct; and

- (b) only provide confirmation for any particular critical worker for the purposes of paragraph 6 if the employer:
 - (i) is satisfied at the time that the information provided as part of the critical worker registration process in so far as it relates to the critical worker remains true and correct; or
 - (ii) where the employer is not satisfied that the information is true and correct, has updated the information prior so that it is true and correct; and
 - (iii) remains satisfied that no other person who ordinarily performs that work and who is not subject to the **isolation requirements** is available to perform that work; and
 - (c) implement appropriate risk management strategies to protect the health and safety of its work force who are attending work during a critical worker furlough period, including both critical workers who are close contacts and those who are not..
9. If an employer provides confirmation for the purposes of paragraph 6 of these directions, the employer must take reasonable steps to ensure that the critical worker complies with the requirements of these directions including by providing sufficient rapid antigen tests and providing appropriate instructions and information in relation to the carrying out of those tests to enable a critical worker to comply with the requirements of paragraph 6(a)(vii) of these directions.

DEFINITIONS

10. **Accepted proof of vaccination** means one of the following showing that the person is fully vaccinated:
- (a) a COVID-19 digital vaccination certificate or an Immunisation History Statement issued to the person showing the COVID-19 vaccinations recorded on the Australia Immunisation Register for the person;
 - (b) an International COVID-19 Vaccination Certificate issued by the Commonwealth Government to the person showing the COVID-19 vaccinations recorded on the Australian Immunisation Register for the person;

- (c) a **foreign vaccination certificate**;
 - (d) written confirmation of vaccinations issued by the Chief Health Officer or a person authorised by the Chief Health Officer to the person of the COVID-19 vaccinations administered to the person; or
 - (e) a digital certificate contained in an **approved app** showing the COVID-19 vaccinations administered to the person.
11. **Approved app** means the Medicare Express app or the ServiceWA app or any other app or application designated in writing by the State Emergency Coordinator, or a person authorised by the State Emergency Coordinator for that purpose, to be an approved app.
12. **Approved COVID-19 vaccine** means:
- (a) any vaccine that has been approved by the Therapeutic Goods Administration for use in Australia for the purpose of vaccinating persons against COVID-19;
 - (b) any other vaccine specified by the Chief Health Officer, or any other person authorised by the Chief Health Officer for that purpose, as an approved COVID-19 vaccine.
13. **Booster ineligible** means not eligible to receive a booster dose of an **approved COVID-19 vaccine** by reason of the booster vaccine eligibility criteria in Western Australia.
14. **Booster vaccination** means a booster dose of a COVID-19 vaccine registered by the Therapeutic Goods Administration and recommended for use as a single booster dose by the Australian Technical Advisory Group on Immunisation.
15. **Close contact** has the same meaning that it has in the COVID Transition (Testing and Isolation) Directions (No 2).
- Note: a close contact does not include a diagnosed person within the meaning of the COVID Transition (Testing and Isolation) Directions (No 2).*
16. **Confirmation** means oral or written confirmation from the employer that the employer requests that the critical worker attend work during a critical worker

furlough period, which confirmation may be given in relation to an individual worker or a class of workers of which the critical worker forms a part.

17. **Critical worker** means a person who:
- (a) cannot undertake their work from their isolation premises; and
 - (b) who performs work that:
 - (i) is critical to the COVID-19 response; or
 - (ii) is critical to the continuation of critical services that prevent significant harm (including loss of life, catastrophic impacts to safety or welfare or lack of access to essential goods) to any person or the community; or
 - (iii) is necessary for the safe continuation of services in an **essential industry**, or provides specialist skills in an essential industry, provided that the person also falls within a category of worker described in column 2 of the table set out in Schedule 1.
18. **Critical worker furlough period** means any period which the State Emergency Coordinator or the Chief Health Officer from time to time designates by notice in writing to be a critical worker furlough period, which notice may designate:
- (a) a start date and end date, in which case the critical worker furlough period shall operate on and from the start date until the end date; or
 - (b) a start date only, in which case the critical worker furlough period shall continue to run until the State Emergency Coordinator or Chief Health Officer designates by notice in writing that the critical worker furlough period is to conclude.
19. **Critical worker mitigation assessment** means a risk assessment in relation to the particular risks presented by having a critical worker or class of critical workers attending the work place during their isolation period and identification of appropriate mitigations, including giving due consideration to the health and wellbeing of other workers.
20. **Critical worker registration process** means the completion of the electronic form for registration of critical workers, including provision of all of the information that

an employer is requested to provide through the electronic form and the declaration, which is available at www.wa.gov.au.

21. **Diagnosed person** has the same meaning as in the COVID Transition (Testing and Isolation) Directions (No 2).
22. **Employer** means the Chief Executive Officer or equivalent, or a person or a person falling within a class of persons, nominated in writing by the Chief Executive Officer, of the business, entity or undertaking by whom the critical worker is employed or engaged under a contract of service., and in paragraphs 6(b), 8 and 9 includes the business, company, organisation or other entity by which the Chief Executive Officer or equivalent is employed.
23. **Essential industry** means an industry described in column 1 of the table set out in Schedule 1.
24. **Face covering** means a disposable surgical mask or fitted cloth mask that covers the nose and mouth (but does not include a face shield).
25. **Face covering exceptions** means one of the exceptions set out in paragraph 7(e), (f), (j), (k), (r), (v) and (w) of the COVID Transition (Face Coverings) Directions, (No 2) provided that the requirement of paragraphs 7(x) and 7(y) of those directions must also be satisfied.
26. **Foreign vaccination certificate** means a certificate that meets the criteria set out by the Australian Passport Office in its guidance on foreign vaccination certificates available at:

<https://www.passports.gov.au/guidance-foreign-vaccination-certificates>
27. **Full course** means:
 - (a) in respect of the SPIKEVAX, VAXZEVRIA and COMIRNATY – BNT162b2 vaccines, two doses of the vaccine administered with an appropriate interval between doses;
 - (b) in respect of the COVID-19 Vaccine Janssen, a single dose of that vaccine;
and

- (c) in respect of any other COVID-19 vaccine, such number of doses of that vaccine as specified by the Chief Health Officer or a person authorised by the Chief Health Officer for that purpose.
28. **Fully vaccinated** means a person that has been administered with a:
- (a) **full course** of an approved COVID-19 vaccine; and
 - (b) **booster vaccination** unless the person is **booster ineligible**.
29. **Isolation period** has the same meaning that it has in the COVID Transition (Testing and Isolation) Directions (No 2).
30. **Isolation premises**, in relation to a person, means the premises where the person is required to remain in their isolation period in accordance with the isolation requirements.
31. **Isolation requirements** has the same meaning that it has in the COVID Transition (Testing and Isolation) Directions (No 2).
32. **Negative result** has the same meaning that it has in the COVID Transition (Testing and Isolation) Directions (No 2).
33. **Rapid antigen test** has the same meaning that it has in the COVID Transition (Testing and Isolation) Directions (No 2).
34. **Registered** means included on the critical worker list (by reference to position title or role) the forms part of the critical worker registration process as updated from time to time in accordance with paragraph 6(b)(iii).
35. **Symptoms** means any one or more of the following:
- (a) a fever of 37.5 degrees or above; or
 - (b) a recent history of fever; or
 - (c) symptoms of acute respiratory infection (including, but without limitation, shortness of breath, a cough or sore throat); or
 - (d) a loss of smell or taste.

PENALTIES

It may be an offence not to comply with any of these directions, punishable by imprisonment for up to 12 months or a fine of up to \$50,000 or \$250,000 for a body corporate.



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Christopher John Dawson
Commissioner of Police and State Emergency Coordinator

18 February 2022 1948 hours

SCHEDULE 1

Essential industries and categories of worker

Critical Worker Category	Category of worker
1. Transport, freight and logistics, including public transport	<p>A person who works at a work premises providing:</p> <ul style="list-style-type: none"> a) rail services including rail networks controllers, train drivers, rail maintenance crews, security control room staff, key operations management team and transit guards; b) maritime operations including tug operators, stevedores, port small craft operators and vehicle traffic service operators; c) road transport services including road traffic controllers, incident response service, regional maintenance crews, tow truck drivers and vehicle repairers but not including taxi or rideshare services; d) air transport services including airport control room, airside runway safety team, airside maintenance team, network support and emergency response; e) logistics including livestock haulier, any truck driver delivering food, fuel and medical supplies; post office and postal delivery drivers and delivery, courier and parcel drivers. <p>A person who directly provides or coordinates the delivery of:</p> <ul style="list-style-type: none"> a) a bus company service; b) a public transport service; c) and the maintenance or repair of equipment essential for the provision of these services.

<p>2. Food, beverage and pharmaceutical manufacturing, supply and retailing</p>	<p>A person who works at a work premises used for the distribution, production, and processing of goods:</p> <ul style="list-style-type: none"> a) food including meat and seafood processing; b) beverages including brewed and bottled drinks; c) pharmaceuticals. <p>A person employed or engaged to work in retail premises that are supermarkets, grocery shops, pharmacies or other shops that predominantly sell food, drinks and pharmaceuticals. (Excludes hospitality venues e.g. pubs, cafes, bars)</p>
<p>3. Petrol stations and truck stops</p>	<p>A person who works at a petrol station or truck stop.</p>
<p>4. Agriculture</p>	<p>A person who directly provides or coordinates the delivery of:</p> <ul style="list-style-type: none"> a) food safety and verification, inspection or associated laboratory services and biosecurity functions; b) animal saleyards, knackeries and animal transportation services (including livestock and pets); c) services connected with animal health, husbandry or welfare; d) farm, animal and bloodstock leasing activities, including: <ul style="list-style-type: none"> i. farming activities and other operations relating to agriculture, horticulture, viticulture, irrigation, permaculture, apiculture, grains, fibre production, dairy, commercial fishing, aquaculture and livestock; ii. intensive agricultural production including greenhouses and animal production; iii. agricultural, veterinary chemicals and vaccine production, transportation and distribution; iv. animal feed production, transportation, packaging, sale, and feeding (including livestock and pets).

<p>5. Critical resources, power, utilities and waste management services</p>	<p>A person who directly provides or coordinates the delivery of:</p> <ul style="list-style-type: none"> a) specialist services to support telecommunications as a critical service during the COVID-19 pandemic; b) services to support the ongoing provision and regulation of electricity, gas, liquid fuels and refinery services, water, sewage and waste and recycling services and their maintenance; c) domestic and commercial waste and resource recovery services (including collection, treatment and disposal services and transfer stations); d) the operation of primary clinical waste incinerators by specialised clinical waste workers; e) telecommunications, broadcasting and internet infrastructure and services sector; f) and the maintenance or repair of equipment essential for the provision of these services. <p>A person who performs a role critical to the safe operation of a site where activities are performed including:</p> <ul style="list-style-type: none"> a) mining operation; b) petroleum operation; c) pipeline operation; d) exploration operation; e) geothermal energy operation; f) ancillary operation.
<p>6. Building and construction</p>	<p>A person who is providing:</p> <ul style="list-style-type: none"> a) urgent repairs and maintenance (i.e. to ensure the health and safety of occupants, or safety of the site); b) building and construction work on existing sites to the extent necessary to ensure site safety and stability; c) building and construction work to enable or support essential functions (e.g. health and quarantine facilities); d) critical works to maintain the continuity of construction that cannot be shut-down and restarted; e) critical ancillary support functions and supply chain, including regulatory roles and surveyors.

7. Corrective and judicial services	<p>A person who works directly in the provision of services at a custodial facility that is a facility used for the detention of persons, including but not limited to a:</p> <ul style="list-style-type: none"> a) prison; b) detention centre; c) workcamp. <p>A person providing community correction services.</p> <p>A person essential to the operation of WA Court and Tribunal services.</p>
8. Police and Emergency Services	<p>A person who directly provides or coordinates the delivery of any of the following emergency services:</p> <ul style="list-style-type: none"> a) WA Fire and Emergency Services including volunteer emergency services; b) local government fire prevention, control and extinguishment activities. c) aquatic safety services, including lifesaving services; d) paramedical services; e) ambulance and paramedics services; f) air ambulance and medical retrieval services (including Royal Flying Doctor Service); g) WA Police; h) essential infrastructure and essential services that are required to maintain or protect human health, safety and wellbeing (whether provided by a public or private undertaking), and including maintenance and repair of such infrastructure; and i) the maintenance or repair of equipment essential for the provision of these services.
9. Schools and child care	<ul style="list-style-type: none"> a) Any person who is employed or contracted to work in a school (K-12) including teachers, and educational support staff; b) Any person who is employed or contracted to work in a child care service facility.

10. Social assistance and residential care	<p>A person who works at:</p> <ul style="list-style-type: none"> a) services relating to drug and alcohol treatment and support; b) services relating to disability support; c) services relating to child protection; d) services for Aboriginal and Torres Strait islander people; e) services relating to prevention of or recovery from institutional abuse, family or domestic violence or abuse; f) services relating to public housing support; g) services relating to homelessness including but not limited to services provided to people who are homeless or at risk of being homeless; h) services relating to mental health; i) services relating to in-home and community aged care including recipients receiving any of the following care types: <ul style="list-style-type: none"> i. Home Care Package; ii. Short-term Restorative Care; iii. Transition Care Program; iv. Multi-Purposes Services Program; v. Commonwealth Home Support Programme; or vi. National Aboriginal Torres Strait Islander Flexible Aged Care Program; j) services relating to residential aged care <p>to the extent not captured by subparagraphs (a) to (j) any social services provided by or contracted by the Western Australian government relating to support for members of the community who have a particular need because of illness or a chronic health condition or infirmity.</p>
11. Veterinary services	A person who works at veterinary clinic or veterinary hospital.
12. Funeral, crematorium and cemetery services.	A person who works in the delivery or coordination of funerals, burials, cremations or related activities, including funeral parlours and crematoriums.
13. Defence	A member of the Australian Defence Force (ADF) or a person whose work is necessary for the safe continuation of ADF operations.