

# EMERGENCY MANAGEMENT ACT 2005 (WA)

## Sections 67, 70 and 72A

### COVID TRANSITION (HEALTHCARE 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 **healthcare critical worker** and is a **close contact** attending work, 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 (Healthcare Critical Worker) Directions**.

#### COMMENCEMENT

3. These directions come into effect upon signing.

#### OPERATION OF THESE DIRECTIONS

4. These directions modify the operation of the COVID Transition (Testing and Isolation) Directions (No 2) in relation to healthcare critical workers during a **healthcare worker furlough period**.
5. During any period:
  - (a) that is not a healthcare worker furlough period applying to a particular healthcare worker (whether as an individual or a class of healthcare worker or otherwise); or

- (b) that is a healthcare worker furlough period applying to a particular healthcare worker but the particular healthcare critical worker does not meet the requirements of paragraph 6,

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

*Note: These directions do not compel a healthcare critical worker to attend work. They establish an alternative testing and isolation process for close contacts so that healthcare 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 healthcare critical workers

6. Notwithstanding the COVID Transition (Testing and Isolation) Directions (No 2), and subject to paragraph 8, during a healthcare worker furlough period, a healthcare critical worker to whom that healthcare worker furlough period applies and 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 healthcare critical worker:
- (i) has received **confirmation** from his or her **employer** that the employer requests the healthcare critical worker attend work during the particular healthcare worker furlough period, and that confirmation has not been withdrawn; and
  - (ii) has consented to attending work during their isolation period; and
  - (iii) 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

- (iv) does not have **symptoms**; and
- (v) undertakes a **rapid antigen test**:
  - (A) before leaving their isolation premises to attend work each time they propose to attend work during their isolation period; or
  - (B) if, and only if, the worker travels to work alone and not with others (and for the avoidance of doubt, not by way of bus, train or other form of mass public transport or taxi or rideshare service), immediately upon arrival to their place of work,

and receives a **negative result** each time before leaving or commencing work (whichever applies); 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*

- (vi) reports the results of each rapid antigen test taken in accordance with subparagraph 6(a)(v) to their employer before commencing work on each relevant day; and
- (b) the healthcare critical worker's employer has:
- (i) undertaken a **critical worker mitigation assessment**; and
  - (ii) established a system for the recording of rapid antigen test results reported by healthcare critical workers; and
  - (iii) provided confirmation to the healthcare critical worker that the healthcare critical worker is requested to attend work during a particular healthcare worker furlough period.

7. For the avoidance of doubt, confirmation may be provided:

- (a) in relation to a particular healthcare worker furlough period or periods; and
- (b) before or during a healthcare worker furlough period, and where it is provided during, the confirmation becomes effective only from the date that it is provided.



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

8. A healthcare 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.
9. Where a healthcare critical worker is required to leave the workplace in the circumstances to which paragraph 8(b) applies, the person must travel:
  - (a) wherever practicable, alone, or only with a member or members of their own household; and
  - (b) in any event, not by way of bus, train or other form of mass public transport unless there is no practicable alternative available.

### **Additional obligations of employers**

10. An employer must:
  - (a) only provide confirmation for any particular healthcare critical worker for the purposes of paragraph 6 if the employer 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
  - (b) if not satisfied of the matters set out in subparagraph (a), withdraw the confirmation and communicate that to the healthcare critical worker; and
  - (c) implement appropriate risk management strategies to protect the health and safety of its work force who are attending work during a healthcare worker

furlough period, including both healthcare critical workers who are close contacts and those who are not.

11. If an employer provides confirmation for the purposes of paragraph 6 of these directions, the employer must take reasonable steps to ensure that the healthcare 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 healthcare critical worker to comply with the requirements of paragraph 6(a)(v) of these directions.

## INTERPRETATION

12. 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

13. **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.
14. **Allied health** means:
  - (a) chiropractic medicine;

- (b) medical radiation practice;
- (c) occupational therapy;
- (d) optometry;
- (e) osteopathy;
- (f) paramedicine;
- (g) pharmacy;
- (h) physiotherapy;
- (i) social work;
- (j) podiatry
- (k) psychology

15. **Ambulance officer** means a person employed or otherwise engaged, including a voluntary capacity, by:

- (a) St John Ambulance Western Australia;
- (b) The Royal Flying Doctor Service of Australia;
- (c) Wilson Medic One;
- (d) National Patient Transport;
- (e) Serco Group Proprietary Limited;
- (f) Department of Fire and Emergency Services; or
- (g) CHC Helicopters Australia,

but only at a time that person is providing ambulance, patient transport, rescue helicopter and related services in that capacity at, or in connection with, a **hospital** or **primary healthcare facility**.

16. **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.



17. **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; or
  - (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.
18. **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.
19. **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.
20. **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).*
21. **Confirmation** means oral or written confirmation from the employer that the employer requests that the healthcare critical worker attend work during a healthcare worker furlough period, which confirmation may be given in relation to an individual worker or a class of workers of which the healthcare critical worker forms a part.
22. **Critical worker mitigation assessment** means a risk assessment in relation to the particular risks presented by having a healthcare critical worker or class of healthcare 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.
23. **Detention centre** has the same meaning as in the *Young Offenders Act 1994* (WA).
24. **Detention centre clinic** means an in-house healthcare centre in a **detention centre**.
25. **Diagnosed person** has the same meaning as in the COVID Transition (Testing and Isolation) Directions (No 2).

26. **Employer** means the business, entity or undertaking by whom the healthcare critical worker is employed or engaged under a contract of service or as a volunteer.
27. **Face covering** means a disposable surgical mask or fitted cloth mask that covers the nose and mouth (but does not include a face shield).
28. **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.
29. **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>
30. **Full course** means:
- (a) in respect of the SPIKEVAX, VAXZEVRIA, COMIRNATY – BNT162b2 and Nuvaxovid (Novavax) 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.
31. **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**.

*Note: Only fully vaccinated people can attend work under these directions. A person who is not vaccinated will not be permitted to go to work as a close contact under these directions even if that person has an exemption recorded on the Australian Immunisation Register, even if that person has an exemption recorded on the Australian Immunisation Register or a temporary exemption from the Chief Health*



*Officer (or a person authorised by the Chief Health Officer) for the purposes of a different direction.*

- 32. **General practice** means a facility at which a health service is provided to patients and is predominantly delivered by general practitioners.
- 33. **Health clinic** means a facility at which a health service is provided to members of the community.
- 34. **Healthcare critical worker** means a person who cannot undertake their work from their isolation premises and who performs work in the healthcare industry that:
  - (a) is critical to the COVID-19 response; or
  - (b) 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 or services) to any person in the community; or
  - (c) is necessary for the safe continuation of services in the healthcare industry, or provides specialist skills in the healthcare industry provided that the person also falls within a category of worker set out in Schedule 1; or
  - (d) the Chief Health Officer or a person or class of persons authorised by the Chief Health Officer designates in writing to be a person or class of person that is a healthcare critical worker.
- 35. **Healthcare services** means one of the following services:
  - (a) medical;
  - (b) dental;
  - (c) pathology and phlebotomy;
  - (d) nursing;
  - (e) midwifery;
  - (f) pharmaceutical;
  - (g) Aboriginal and Torres Strait Islander health practice;
  - (h) Chinese medicine;
  - (i) **allied health**; or

- (j) any other service which the Chief Health Officer or a person authorised by the Chief Health Officer designates as a **healthcare service**.
36. **Healthcare support services** means one of the following services:
- (a) formal language and interpretation services.
  - (b) essential administrative, clerical and managerial services that are critical to enabling healthcare services to be provided;
  - (c) direct care services provided by an Assistant in Nursing;
  - (d) food preparation, cleaning and laundry services;
  - (e) patient service assistant, orderly, hospital service assistant and porter services;
  - (f) operating theatre support services including preparation and maintenance of operating theatres and their equipment, assisting the surgical team during operations and providing support to patients in the recovery room;
  - (g) security and essential maintenance and repair services;
  - (h) essential information technology services and information technology support services;
  - (i) any other service which the Chief Health Officer or a persona authorised by the Chief Health Officer designates as a healthcare support service.
37. **Healthcare 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 healthcare worker furlough period, which notice may:
- (a) specify a start date and end date, in which case the healthcare worker furlough period shall operate on and from the start date until the end date; or
  - (b) specify a start date only, in which case the healthcare worker furlough period shall continue to run until the State Emergency Coordinator or Chief Health Officer designates by notice in writing that the healthcare worker furlough period is to conclude; and

- (c) be stated to apply to healthcare critical workers generally, or to a particular individual or class or classes of healthcare critical workers or to healthcare critical workers working at a particular type or types of facility; and
  - (d) be limited to particular hours of operation during the period for which the healthcare worker furlough period is in effect.
38. **Hospital** has the same meaning as in the *Health Services Act 2016* (WA).
39. **Isolation period** has the same meaning that it has in the COVID Transition (Testing and Isolation) Directions (No 2).
40. **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.
41. **Isolation requirements** has the same meaning that it has in the COVID Transition (Testing and Isolation) Directions (No 2).
42. **Mobile health vehicle** means a vehicle from which a healthcare service is provided to patients.
43. **Negative result** has the same meaning that it has in the COVID Transition (Testing and Isolation) Directions (No 2).
44. **Primary healthcare facility** means:
- (a) a **general practice**;
  - (b) a **health clinic**, including but not limited to, a medical specialist operated clinic, a nurse operated clinic and an allied health professional operated clinic;
  - (c) a **prison clinic**;
  - (d) a **detention centre clinic**;
  - (e) premises where COVID-19 related testing or COVID-19 vaccination occurs;
  - (f) a community health centre at which a health service is provided to patients;
  - (g) an Aboriginal health service;
  - (h) a **mobile health vehicle**;
  - (i) a pharmacy;



- (j) a human pathology centre (excluding pathology laboratories solely providing research services);
- (k) a human medical imaging centre (including nuclear medicine);
- (l) a blood donation centre;
- (m) a dental surgery or practice;
- (n) a research institute where patients attend the premises for research purposes;
- (o) a hospice;
- (p) any other facility that is specified to be a primary health care facility by the Chief Health Officer in writing or any person authorised by him,

but does not include:

- (q) a residential aged care facility;
- (r) a private psychiatric hostel as defined in the *Private Hospitals and Health Services Act 1927* (WA);
- (s) a health clinic to the extent that it includes residential premises, at times that a health service is not being provided to a patient at the premises;
- (t) disability supported accommodation; or
- (u) any other facility that is specified to not be a primary health care facility by the Chief Health Officer in writing or any person authorised by him for that purpose.

45. **Prison** has the same meaning as in the *Prisons Act 1981* (WA).

46. **Prison clinic** means an in-house healthcare centre in a **prison**.

47. **Rapid antigen test** has the same meaning that it has in the COVID Transition (Testing and Isolation) Directions (No 2).

48. **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.



.....  
**Christopher John Dawson**

Commissioner of Police and State Emergency Coordinator

~~25~~ February 2022 1514 hours

27 

## **SCHEDULE 1**

### **Healthcare Critical Workers**

1. A person who provides or coordinates the delivery of one of the following at a hospital or primary healthcare facility, including after hours and on an on-call basis:
  - (a) healthcare services; and
  - (b) **healthcare support services.**
2. An **ambulance officer.**
3. A person providing telehealth services.
4. A person providing home-based nursing care.
5. A person providing palliative care outreach services.