



Public Health (Jervis Bay Territory) Emergency Direction (No. 3) 2022

I, David Mackay, Acting Deputy Secretary, Regional, Cities and Territories, Department of Infrastructure, Transport, Regional Development, Communications and the Arts, exercising powers vested in me under the direction, dated 16 April 2020, made by the Governor-General under subsection 4B(2) of the *Jervis Bay Territory Acceptance Act 1915* (Cth), make the following Direction.

Dated 14 October 2022

David Mackay

Acting Deputy Secretary

Regional, Cities and Territories

Department of Infrastructure, Transport, Regional Development, Communications and the Arts

Contents

Part 1—Preliminary	1
1 Name	1
2 Commencement.....	1
3 Authority	1
4 Duration.....	1
5 Revocation.....	1
6 Booderee National Park.....	2
7 Definitions	2
Part 2—Fitted face coverings	3
8 Definitions.....	3
8 Direction—Fitted face coverings	3
9 Exceptions for certain persons	3
10 Exceptions in certain situations.....	4
Part 3—Other directions	5
11 Direction about residential aged care facilities	5
12 Direction—spitting or coughing on public official or other worker	5
Part 4—COVID-19 diagnosed persons	6
13 Definitions	6
14 Direction—persons diagnosed with COVID-19	7
15 Direction—Persons diagnosed with COVID-19 must notify employers, close contacts and education providers.....	7
16 Direction—Persons diagnosed with COVID-19 excluded from work on certain premises for period of 7 days.....	8
Part 5—Miscellaneous	8
17 Exemptions.....	8
18 Enforcement	9
19 Information provided must be true and accurate.....	9

Part 1—Preliminary

1 Name

This instrument is the Public Health (Jervis Bay Territory) Emergency Direction (No. 3) 2022.

2 Commencement

This Direction takes effect immediately after it is made.

3 Authority

- (1) This Direction is made under section 120 of the *Public Health Act 1997* (ACT), as in force in the Jervis Bay Territory under section 4A of the *Jervis Bay Territory Acceptance Act 1915* (Cth).
- (2) This Direction is considered necessary or desirable to alleviate the emergency declared under the *Public Health (Jervis Bay Territory) Emergency Declaration 2020*.

4 Duration

This Direction is in force for the period ending on the day the declared emergency (as extended or further extended) ends, unless it is earlier revoked.

5 Revocation

- (1) This Direction revokes the Earlier Direction.
- (2) For the avoidance of doubt, any act, matter or thing that, immediately before the revocation of the Earlier Direction, had effect under that Direction continues to have effect.
- (3) If, immediately before the commencement of this Direction, a person was required to keep a record under the Earlier Direction, that requirement continues as if the Earlier Direction remained in force.
- (4) If, immediately before the commencement of this Direction, an exemption granted by an emergency services officer under the Earlier Direction was in force, that exemption continues as if it were granted under this Direction.
- (5) In this Section:

Earlier Direction means the Public Health (Jervis Bay Territory) Emergency Direction (No 2) 2022.

6 Booderee National Park

For the avoidance of doubt, nothing in this Direction authorises the entry of a person into the Booderee National Park (the **Park**), including an area of the Park, or the engagement of an activity in the Park, including in an area of the Park, that is otherwise in contravention of a prohibition or restriction imposed by the Director of National Parks under subregulations 12.23(3) and 12.23A(3) of the *Environment Protection and Biodiversity Conservation Regulations 2000* (Cth).

7 Definitions

Note: A number of expressions used in this Direction are defined in the Act and the *Legislation Act 2001* (ACT) as in force in the Territory under section 4A of the *Jervis Bay Territory Acceptance Act 1915* (Cth).

In this Direction:

Act means the *Public Health Act 1997* (ACT), as in force in the Jervis Bay Territory under section 4A of the *Jervis Bay Territory Acceptance Act 1915* (Cth).

authorised person means an authorised person under section 121 of the Act.

disability has the same meaning as in the *Disability Inclusion Act 2014* (NSW).

emergency services officer has the same meaning as in the *Jervis Bay Territory Emergency Management Ordinance 2015* (Cth).

fitted face covering means a mask or other covering that:

- (a) fits securely around the face; and
- (b) is designed or made to be worn over the nose and mouth to provide the wearer with protection against infection.

National Law has the same meaning as in the *My Health Records Act 2012* (Cth).

registered health practitioner means a person registered under a National Law to practise a health profession (other than as a student).

residential aged care facility means a facility at which any of the following services are provided to a person in relation to whom a residential care subsidy or flexible care subsidy is payable under the *Aged Care Act 1997* (Cth):

- (a) accommodation;
- (b) personal care or nursing care.

Territory has the same meaning as in the *Jervis Bay Territory Acceptance Act 1915* (Cth).

work includes work done as a volunteer or for a charitable organisation.

Part 2—Fitted face coverings

8 Definitions

In this Part:

hostel means premises that are generally staffed by social workers or support providers and at which:

- (a) residential accommodation is provided in dormitories, or on a single or shared basis, or by a combination of them, and
- (b) cooking, dining, laundering, cleaning and other facilities are provided on a shared basis.

indoor area includes an area in a building or other structure, whether or not temporary, which has a roof, ceiling or other top covering, but does not include an area with at least 2 sides open to the weather.

registered NDIS provider means a registered NDIS provider within the meaning of the *National Disability Insurance Scheme Act 2013* (Cth).

residential care facility means accommodation for seniors or people with a disability that includes:

- (a) meals and cleaning services, and
- (b) personal care or nursing care, or both, and
- (c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care;

but does not include a dwelling, hostel, hospital or psychiatric facility.

8 Direction—Fitted face coverings

- (1) A person who is over 12 years of age must wear a fitted face covering while the person is in an indoor area of any of the following:
 - (a) a public hospital or private health facility, or
 - (b) a residential care facility or hostel.
- (2) The fitted face covering must be worn so that it covers the person's nose and mouth.

9 Exceptions for certain persons

- (1) A person is not required to wear a fitted face covering if the person:
 - (a) has a physical or mental health illness or condition, or disability, that makes wearing a fitted face covering unsuitable; and
 - (b) carries evidence showing:
 - (i) that the person has the illness, condition or disability; and
 - (ii) the illness, condition or disability makes wearing a fitted face covering unsuitable; and
 - (iii) the person's name and place of residence; and

-
- (c) produces the evidence for inspection if requested to do so by an emergency services officer.
 - (2) Evidence for the purposes of subparagraphs (1)(b)(i) and (ii) must be in the form of:
 - (a) a medical certificate or other written evidence signed by a registered health practitioner or a registered NDIS provider; or
 - (b) a statutory declaration by the person.
 - (3) A person may remove a fitted face covering the person is otherwise required to wear if the person is:
 - (a) eating or drinking; or
 - (b) engaging in physical exercise; or
 - (c) communicating with a person who is deaf or hard of hearing; or
 - (d) engaging in work if:
 - (i) wearing the covering is a risk to the person's, or another person's, health and safety; or
 - (ii) enunciation or visibility of the person's mouth is essential; or
 - (iii) the work is in an indoor area and no other person is in the area; or
 - (e) requested to remove the covering as part of an identity check; or
 - (f) required to remove the covering:
 - (i) because of an emergency; or
 - (ii) for the proper provision of goods or a service; or
 - (g) in a public hospital or private health facility as a patient; or
 - (h) in a residential care facility or hostel as a resident.
 - (4) A person who removes the person's fitted face covering under subsection (3) must resume wearing it as soon as practicable after the circumstance ends.

10 Exceptions in certain situations

- (1) A relevant person may remove a fitted face covering in an exempt area while the relevant person is not interacting directly with members of the public (including patients and visitors).
- (2) A relevant person who has removed a fitted face covering in an exempt area under subsection (1) must take reasonable steps to remain physically distanced from other persons.
- (3) In this Section:

exempt area means an area of a public hospital or private health facility where patients or visitors are not normally permitted to congregate or enter, such as hospital administration areas.

relevant person means staff, contractors, volunteers and other workers employed or engaged at a public hospital or private health facility.

Part 3—Other directions

11 Direction about residential aged care facilities

- (1) The operator of a residential aged care facility must consider the advice of the NSW Chief Health Officer in relation to all of the following matters:
 - (a) the management of visitors to the premises of the facility;
 - (b) the screening of staff and visitors before entering the premises of the facility;
 - (c) the conduct of group recreational or other activities for residents of the facility;
 - (d) the wearing of fitted face coverings by staff and visitors;
 - (e) vaccinations against influenza or COVID-19 for staff, visitors and residents.

- (2) In this Section:

operator of a residential aged care facility means the person who owns, controls or operates the facility.

12 Direction—spitting or coughing on public official or other worker

- (1) A person must not intentionally spit at or cough on any of the following persons in a way that would reasonably be likely to cause fear about the spread of COVID-19:
 - (a) a public official; or
 - (b) a health worker; or
 - (c) another worker while the worker is:
 - (i) at the worker's place of work; or
 - (ii) travelling to or from that place of work.
- (2) If the worker's place of work is the worker's residential premises, the place of work does not, for the purposes of this section, include any part of the premises used solely for residential purposes.
- (3) Without limiting paragraph (1)(c), a worker includes the following:
 - (a) a retail worker;
 - (b) a person who works at an airport;
 - (c) a person who works for an electricity, gas, water or other utility company;
 - (d) a person who works in the transport industry or a transport-related industry;
 - (e) a member of the Australian Defence Force (within the meaning of the *Defence Act 1903* (Cth)).

Note: Examples of public officials and workers include hospital staff, bus drivers, train drivers, ferry deckhands, taxi drivers, ride share drivers, food delivery workers, security guards, electricity, gas and water meter readers and postal delivery staff (including persons working for an entity under a contract, directly or indirectly, on behalf of a government).

(4) In this Section:

health worker means:

- (a) a person employed in the NSW Health Service within the meaning of the *Health Services Act 1997* (NSW), or
- (b) a person engaged by the Health Administration Corporation, within the meaning of the *Health Administration Act 1982* (NSW), to enable the Corporation to exercise its functions, or
- (c) a person engaged by a public health organisation, within the meaning of the *Health Services Act 1997* (NSW), to enable the organisation to exercise its functions, or
- (d) a member of staff of a licensed private health facility within the meaning of the *Private Health Facilities Act 2007* (NSW), or
- (e) a registered health practitioner, or
- (f) a person who works in a pharmacy or on other premises at which a health practitioner routinely practises the practitioner's profession, or
- (g) a member of staff of St John Ambulance Australia (NSW), or
- (h) a member of staff of the Royal Flying Doctor Service of Australia (NSW Section), or
- (i) a person engaged or employed by the South Coast Medical Service Aboriginal Corporation.

public official means:

- (a) an authorised person; or
- (b) an emergency services officer; or
- (c) a police officer; or
- (d) another person exercising public functions under a law in force in the Territory; or
- (e) an Immigration and Border Protection worker within the meaning of the *Australian Border Force Act 2015* (Cth); or
- (f) a person employed or otherwise engaged by the Commonwealth:
 - (i) Department of Infrastructure, Transport, Regional Development, Communications and the Arts; or
 - (ii) Department of Health and Aged Care.

Part 4—COVID-19 diagnosed persons

13 Definitions

In this Part:

authorised contact tracer means:

- (a) an emergency services officer;
- (b) a person engaged by a State or the Australian Capital Territory whose duties include:
 - (i) identifying persons who may have come into contact with a person with COVID-19; or

-
- (ii) notifying a person that the person has been identified as a close contact.

diagnosed person means a person who:

- (a) has been notified by or on behalf of NSW Health or by a pathology laboratory that they have tested positive for COVID-19; or
- (b) has become aware they have tested positive for COVID-19 as a result of a rapid antigen test.

educational institution means a school, college, university or other institution at which education or training is provided.

supports has the same meaning as in the *Disability Inclusion Act 2014* (NSW).

Testing Positive to COVID-19 Factsheet means the document titled Testing positive to COVID-19 and managing COVID-19 safely at home as in force from time to time and published on the website of NSW Health.

14 Direction—persons diagnosed with COVID-19

A diagnosed person must, if directed to do so by an authorised contact tracer, comply with the Testing Positive to COVID-19 Factsheet for a period not exceeding 7 days from the day the person undertook the test that resulted in the person becoming a diagnosed person.

15 Direction—Persons diagnosed with COVID-19 must notify employers, close contacts and education providers

- (1) A diagnosed person must, immediately after receiving the diagnosis of COVID-19, take reasonable steps to notify the following persons of the diagnosis, but only if it is reasonably practicable to do so:
 - (a) the diagnosed person's employer or a person who engages the diagnosed person as a contractor for services;
 - (b) any person who resides with the diagnosed person;
 - (c) any person who has been in contact with the diagnosed person in a way that might result in the person being at risk of developing COVID-19 as identified in the Testing Positive to COVID-19 Factsheet;
 - (d) if the diagnosed person is a student—the head of the diagnosed person's educational institution or a staff member identified by the institution for receiving notifications of COVID-19 cases.

16 Direction—Persons diagnosed with COVID-19 excluded from work on certain premises for period of 7 days

- (1) A diagnosed person must not enter or remain on the following premises for the purposes of work for a period of 7 days from when the diagnosed person undertook the test that resulted in the person becoming a diagnosed person:
 - (a) a private health facility within the meaning of the *Private Health Facilities Act 2007* (NSW); or
 - (b) a residential aged care facility; or

-
- (c) premises where:
 - (i) 2 or more people with a disability reside with people who are not members of their family, in short-term or long-term accommodation; and
 - (ii) the residents share enclosed common living areas within the premises, whether inside or outside; and
 - (iii) the residents are provided with supports at the premises; or
 - (d) premises occupied by any of the following:
 - (i) an affiliated health organisation within the meaning of the *Health Services Act 1997* (NSW);
 - (ii) a local health district within the meaning of the *Health Services Act 1997* (NSW);
 - (iii) a specialty network governed health corporation within the meaning of the *Health Services Act 1997* (NSW).

Part 5—Miscellaneous

17 Exemptions

- (1) Subject to subsection (2), a relevant departmental official may, in writing and subject to the conditions that the official considers appropriate, grant an exemption to this Direction or specified provisions of this Direction.
- (2) Subsection (1) does not apply to section 12.
- (3) A person who is granted an exemption under subsection (1) must comply with any conditions imposed.
- (4) In this Section:

relevant departmental official means an APS employee in the Department who has responsibility for the Territory and is classified as:

- (a) an Executive Level 2; or
- (b) a Senior Executive Band 1; or
- (c) a Senior Executive Band 2; or
- (d) a Senior Executive Band 3.

18 Enforcement

- (1) If a person fails to comply with this Direction or with a condition imposed under section 17, an authorised person may then direct the person to do such things as are reasonably necessary to comply with the Direction or with the condition including, upon request, to produce proof of identification to the authorised person.
- (2) If a person fails to comply with any direction given under subsection (1), then the authorised person may take all reasonable steps to enforce compliance with this direction or any other provision in this Direction.

19 Information provided must be true and accurate

- (1) A person must ensure information is true and accurate if it is provided under this Direction to an emergency services officer.
- (2) A person must ensure evidence is true and accurate if it is produced in response to a request under this Direction.

