



Public Health (Jervis Bay Territory) Emergency Direction (No. 2) 2021

I, Rachel Bacon, Deputy Secretary, Regional, Cities and Territories Group, Department of Infrastructure, Transport, Regional Development and Communications, 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* (Cwlth), make the following Direction.

Dated 24 February 2021 at 10 : 05 am/pm

Rachel Bacon
Deputy Secretary
Regional, Cities and Territories Group
Department of Infrastructure, Transport, Regional Development and Communications

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Part 1—Preliminary

1 Name

This Direction is the *Public Health (Jervis Bay Territory) Emergency Direction (No. 1) 2021*.

2 Commencement

This Direction takes effect immediately after it is made.

3 Authority

- (1) This Direction is made under section 120 of the Act.
- (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 *Public Health (Jervis Bay Territory) Emergency Direction (No. 1) 2021*.
- (2) For the avoidance of doubt, any act, matter or thing that, immediately before the revocation of the *Public Health (Jervis Bay Territory) Emergency Direction (No. 1) 2021*, had effect under that direction continues to have effect under this Direction.
- (3) If, immediately before the commencement of this Direction, a person was required to keep a record of a person's name and contact details under the repealed direction, that requirement continues under this Direction as if the repealed direction remained in force.
- (4) If, immediately before the commencement of this Direction, an exemption granted by an emergency services officer under the repealed direction was in force, that exemption continues as if it were granted under this Direction.
- (5) In this section:

repealed direction means the *Public Health (Jervis Bay Territory) Emergency Direction (No. 1) 2021*.

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* (Cwlth).

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* (Cwlth).

In this Direction (including the Schedules to 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* (Cwlth).

ACT liquor legislation means the *Liquor Act 2010* (ACT), and any regulations made under or for the purposes of this Act, as in force in the Territory under section 4A of the *Jervis Bay Territory Acceptance Act 1915* (Cwlth).

amusement centre means a building or place (not being part of a pub or registered club) used principally for playing:

- (a) billiards, pool or other like games; or
- (b) electronic or mechanical amusement devices, such as pinball machines, computer or video games and the like.

approved COVID-19 safety checklist means a COVID-19 safety checklist, approved by the NSW Chief Health Officer and published on the New South Wales Government website at the time this Direction takes effect.

Australian Defence Force has the same meaning as in the *Defence Act 1903* (Cwlth).

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

business premises means a building or place at or on which:

- (a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis; or
- (b) a service is provided directly to members of the public on a regular basis; and includes a funeral home and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, betting agencies and the like, but does not include an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital.

camping ground means an area of land that has access to communal amenities and on which campervans or tents, annexes or other similar portable and lightweight temporary shelters are, or are to be, installed, erected or placed for short term use, but does not include a caravan park.

caravan park means land (including a camping ground) on which caravans (or caravans and other moveable dwellings) are, or are to be, installed or placed.

cellar door premises means a building or place that is used to sell wine by retail and that is situated on land on which there is a commercial vineyard, and where most of the wine offered for sale is produced in a winery situated on that land or is produced predominantly from grapes grown in the surrounding area.

close contact means a person identified as:

- (a) likely to have come into contact with a person with COVID-19; and
- (b) being at risk of developing COVID-19.

controlled outdoor public gathering means an outdoor public gathering in an area (the enclosed area):

- (a) that is enclosed or bounded by fencing or another form of barrier; and
- (b) access to which is controlled by way of a ticket.

corporate event means an event or hospitality or social activity organised, held or funded by a business or other organisation for staff, clients or stakeholders, but does not include a gathering referred to in Schedule 2.

COVID-19 environmental cleaning means environmental cleaning and disinfection in a workplace or other non-residential premises to prevent the spread of COVID-19.

COVID-19 Safety Hygiene Marshal, for a hospitality venue or gymnasium, means a person who:

- (a) is responsible for ensuring the COVID-19 Safety Plan for the premises is being adhered to; and
- (b) is dressed in distinctive clothing.

COVID-19 safety plan means the safety plan for the type of activity or premises that addresses the matters required by the COVID-19 safety checklist approved by the NSW Chief Health Officer in relation to the type of activity or premises and published on the NSW Government website at the time this Direction takes effect.

declared emergency means the emergency declared under the *Public Health (Jervis Bay Territory) Emergency Declaration 2020* (as extended or further extended).

designated health practitioner means any of the following:

- (a) a medical practitioner;
- (b) a registered nurse;
- (c) a nurse practitioner;
- (d) a paramedic.

diagnosed person means a person who has been diagnosed with COVID-19.

Director of National Parks has the same meaning as in the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth).

early education and care facility means a building or place used for the education and care of children, and includes a centre-based child care facility, home-based child care and school-based child care.

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

entertainment facility means a theatre, cinema, music hall, concert hall, dance hall and the like, but does not include a pub or registered club.

event includes a function.

food and drink premises means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following:

- (a) a restaurant or café;
- (b) take away food and drink premises;
- (c) a pub;
- (d) a small bar.

function centre means a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility.

gymnasium means a gymnasium that is a recreation facility (indoor) and that is open to members of the public, but does not include a dance, yoga, pilates, gymnastics or martial arts studio.

health profession means the following professions, and includes a recognised specialty in any of the following professions:

- (a) Aboriginal and Torres Strait Islander health practice;
- (b) Chinese medicine;
- (c) chiropractic;
- (d) dental (including the profession of a dentist, dental therapist, dental hygienist, dental prosthetist and oral health therapist);
- (e) medical;
- (f) medical radiation practice;
- (g) midwifery;
- (h) nursing;
- (i) occupational therapy;
- (j) optometry;
- (k) osteopathy;
- (l) paramedicine;
- (m) pharmacy;
- (n) physiotherapy;

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- (o) podiatry;
 - (p) psychology.

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.

hospitality venue means the following:

- (a) a casino;
- (b) food and drink premises;
- (c) micro-breweries, small distilleries holding a drink on-premises authorisation under the ACT liquor legislation and cellar door premises;
- (d) pubs;
- (e) registered clubs;
- (f) small bars.

household means persons living together in the same place of residence.

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.

market means an open-air area, or an existing building, that is used for the purpose of selling, exposing or offering goods, merchandise or materials for sale by independent stall holders, and includes temporary structures and existing permanent structures used for that purpose on an intermittent or occasional basis.

medically cleared, in relation to a person, means the person has been assessed by a medical practitioner as not infectious for COVID-19.

music festival means an event, other than a concert, that:

- (a) is music-focused or dance-focused, and

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- (b) has performances by a series of persons or groups that are engaged to play or perform to live or pre-recorded music, or to provide another form of musical or live entertainment; and
 - (c) is held within a defined area; and
 - (d) is attended by 2,000 or more persons; and
 - (d) is a ticketed event.

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

NSW Chief Health Officer means the Chief Health Officer as defined under the *Public Health Act 2010* (NSW).

NSW Health self-isolation guideline means the *NSW Health Self-Isolation Guideline* issued by the NSW Chief Health Officer and published on the website of NSW Health at the time this Direction takes effect.

Note: www.health.nsw.gov.au

occupier of premises or a part of premises (including premises that are vacant) means:

- (a) the owner of the premises or part; or
- (b) if any other person is entitled to occupy the premises or part to the exclusion of the owner, the person so entitled, and includes the operator of a vehicle or vessel.

outdoor area means an area that is not an indoor area.

outdoor rehearsal or performance means a rehearsal or performance of performing arts by one or more persons that is conducted in an outdoor public place.

parent, in relation to a child, includes a person who has parental responsibility for, or care of, the child.

participant includes:

- (a) a person engaged in the sporting activity; and
- (b) an official involved in the conduct or organisation of the sporting activity; and
- (c) a spectator of the sporting activity.

party bus means a vehicle being used on a commercial basis for the purposes of a party, whether or not the party takes place during transportation between locations.

place of public worship means a building or place used for the purpose of religious worship by a congregation or religious group, whether or not the building or place is also used for counselling, social events, instruction or religious training.

place of residence includes the premises where a person lives and a garden, yard, passage, stairs, garage, outhouse or other area or thing attached to, or used in connection with, the premises.

pub means licensed premises under the ACT liquor legislation the principal purpose of which is the retail sale of liquor for consumption on the premises, whether or not the premises include hotel or motel accommodation and whether or not food is sold or entertainment is provided on the premises.

public gathering means a meeting or assembly of persons for a common purpose, including an organised or planned event, in a public place (whether ticketed or not).

public official means:

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

public place means:

- (a) a place (whether or not covered by water); or
- (b) a part of premises;

that is open to the public, or is used by the public whether or not on payment of money or other consideration, whether or not the place or part is ordinarily so open or used and whether or not the public to whom it is open consists only of a limited class of persons, but does not include a school.

recreation facility (indoor) means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.

recreation facility (major) means a building or place used for large-scale sporting or recreation activities that are attended by large numbers of people whether regularly or periodically, and includes theme parks, sports stadiums, showgrounds, racecourses and motor racing tracks.

registered club means a club that holds a club licence under the ACT liquor legislation.

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

separate area, for a hospitality venue, means an area within the venue:

- (a) that is separate from other areas on the premises; and
- (b) has been designated as a separate area by the occupier of the premises; and

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- (c) if food and drink service are being provided in the area—that has staff that are providing food and drink service only in that area; and
 - (d) that does not allow persons gathering in different areas to mingle.

separate area, for a place of public worship, means a building:

- (a) that is separate from other buildings within the premises; and
- (b) has been designated as a separate building by the occupier of the premises; and
- (c) that is staffed by persons officiating or volunteers or other staff who provide services in that building only; and
- (d) that does not allow persons gathering in different buildings to mingle.

sex services premises means a brothel, but does not include home occupation (sex services).

short-term rental means premises to which a short-term rental accommodation arrangement applies.

short-term rental accommodation arrangement means a commercial arrangement for giving a person the right to occupy residential premises for a period of not more than 3 months at any one time.

significant event means:

- (a) a funeral or memorial service; or
- (b) a wedding service; or
- (c) a gathering following a funeral or memorial service or wedding service.

small bar means a licensed premises under the ACT liquor legislation the principal purpose of which is the retail sale of liquor for consumption on the premises and which is licensed for no more than 120 patrons on the premises.

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

truck driver means the driver of a vehicle being used to transport goods in connection with the driver's work.

truck stop means a place at which driver rooms, driver lounges or similar facilities are located for the use of truck drivers, and includes roadhouses, roadside rest areas and service stations used by truck drivers in connection with their work.

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

8 Interpretation generally

- (1) In calculating both the space available for each person on any premises and the number of persons on the premises, the following persons are not to be included in any calculations:
 - (a) any person engaged in work on the premises for the occupier of the premises;
 - (b) any person on the premises because of an emergency;

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- (c) if the premises are food and drink premises—any person ordering or collecting food or drink to consume off the premises.
 - (2) In calculating the space available for each person on any premises, only the areas that are open to the public are to be included in the calculations.

Part 2—Restrictions on gatherings and use of premises

Division 1—Non-residential premises

9 Direction requiring COVID-19 Safety Plans

The occupiers of premises listed in column 1 of Schedule 1 must:

- (a) develop and comply with a COVID-19 Safety Plan that addresses the matters required by the approved COVID-19 safety checklist set out opposite the premises in column 2 of Schedule 1; and
- (b) keep a copy of the COVID-19 Safety Plan on the premises and make it available for inspection by an emergency services officer as requested.

10 Direction about the number of persons allowed on premises

- (1) The occupier of premises must not allow more persons on the premises than the greater of:
 - (a) the number of persons that is equivalent to one person per 2 square metres of space in the premises; or
 - (b) 25 persons.
- (2) This section does not apply to:
 - (a) a place of residence; or
 - (b) a gymnasium; or
 - (c) an entertainment facility; or
 - (d) a nightclub; or
 - (e) a recreation facility (major); or
 - (f) a vessel used for commercial tours for scuba diving, snorkelling or whale, dolphin or marine animal watching, but only if there are 50 or fewer persons on the vessel; or
 - (g) caravan parks and camping grounds; or
 - (h) holiday homes and short-term rentals; or
 - (i) a gathering referred to in Schedule 2.

11 Direction about gymnasiums

- (1) The occupier of a gymnasium must not allow persons on the premises if the size of the premises is insufficient to ensure there is at least 4 square metres of space for each person on the premises.
- (2) The occupier of a gymnasium must ensure that there is a COVID-19 Safety Hygiene Marshal on the premises if:
 - (a) the gymnasium is open for use; and

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- (b) more than 25 persons are being allowed to use the gymnasium at the same time.
 - (3) The occupier of a gymnasium must ensure the maximum number of persons attending any individual class or activity carried out at the gymnasium does not exceed 50 persons.
 - (4) For the purposes of subsection (3), a person is attending the class or activity if the person is:
 - (a) participating in the class or activity; or
 - (b) instructing at or supervising the class or activity.

12 Direction about hospitality venues

The occupier of a hospitality venue must ensure there is a COVID-19 Safety Hygiene Marshal on the premises if there are more than 250 persons on the premises.

13 Direction about nightclubs

- (1) The occupier of a nightclub must ensure there is a COVID-19 Safety Hygiene Marshal on the premises if there are more than 250 persons on the premises.
- (2) The occupier of a nightclub must not allow persons on the premises if the size of the premises is insufficient to ensure there is at least 4 square metres of space for each person on the premises.

14 Direction about entertainment facilities

- (1) The occupier of an entertainment facility must ensure the maximum number of persons on the premises is:
 - (a) for an indoor entertainment facility—the greater of the following:
 - (i) the number of persons equal to 75% of the fixed seating capacity of the entertainment facility;
 - (ii) the number of persons equivalent to one person per 2 square metres of space in the entertainment facility; and
 - (b) for an outdoor entertainment facility—the greater of the following:
 - (i) the number of persons equal to 100% of the fixed seating capacity of the entertainment facility;
 - (ii) the number of persons equivalent to one person per 2 square metres of space in the entertainment facility.
- (2) If the occupier of an entertainment facility calculates the maximum number of persons allowed to be on the premises based on the percentage of the fixed seating capacity of the entertainment facility, the occupier must ensure:
 - (a) admission to the premises is by way of a ticket; and
 - (b) all persons, other than persons engaged in work, are assigned to specific seats.

15 Direction about major recreation facilities

- (1) The occupier of a recreation facility (major) must ensure the maximum number of persons on the premises is the number of persons equal to:
 - (a) for an indoor recreation facility (major) —the greater of the following:
 - (i) the number of persons equal to 75% of the fixed seating capacity of the recreation facility (major);
 - (ii) the number of persons equivalent to one person per 2 square metres of space in the recreation facility (major); and
 - (b) for an outdoor recreation facility (major) —the greater of the following:
 - (i) the total of:
 - (A) 100% of the fixed seating capacity of the recreation facility (major); and
 - (B) the number of persons equal to one person per 2 square metres of space of any unfixed seating areas of the recreation facility (major);
 - (ii) the number of persons equivalent to one person per 2 square metres of space in the recreation facility (major).
- (2) If the occupier of a recreation facility (major) calculates the maximum number of persons allowed to be on the premises based on the percentage of the fixed seating capacity of the recreation facility (major), the occupier must ensure:
 - (a) admission to the premises is by way of a ticket; and
 - (b) all persons, other than persons engaged in work, are assigned to specific seats or to a seating area.

Division 2—Residential premises

16 Direction about persons allowed on residential premises

- (1) Each adult member of a household must not allow more than 50 visitors to be at the place of residence of the household at any one time.

Note: NSW Health recommends a maximum 30 visitors if the place of residence does not have any outdoor space.
- (2) The visitor to a place of residence must not participate in a gathering at the residence consisting of more than 50 visitors.
- (3) This section does not apply to:
 - (a) a significant event; or
 - (b) the viewing or inspection of real property for sale or lease or an auction of real property.
- (4) For the purposes of this section, a person is not a visitor to a place of residence if the person is a member of the household of the place of residence.

Division 3—Significant events

17 Direction requiring COVID-19 Safety Plans

- (1) The responsible person for a significant event must:
- (a) have and comply with a COVID-19 Safety Plan that addresses the matters required by the approved COVID-19 safety checklist set out opposite the type of event in column 2 of Schedule 1; and

Note: If a person is a responsible person for more than one significant event the person may not need to develop a specific COVID-19 Safety Plan for each event. For example, if wedding services are regularly held in an indoor area on premises, the occupier of the premises may have one COVID-19 Safety Plan that applies to all wedding services held on the premises.

- (b) keep a copy of the COVID-19 Safety Plan on the premises while the significant event is being held and make it available for inspection by an emergency services officer as requested.

- (2) In this section:

responsible person means:

- (a) for a significant event held in a public park, a reserve or a public garden—the person organising the event or conducting the service; and
- (b) for another significant event—the occupier of the premises.

Division 4—Community sporting activities

18 Definition

In this Division:

organiser means:

- (a) for an activity conducted by or on behalf of an entity that is registered under the *Associations Incorporation Act 1991* (ACT), as in force in the Territory under section 4A of the *Jervis Bay Territory Acceptance Act 1915* (Cwlth)—the public officer of the entity; or
- (b) for an activity conducted by or on behalf of an entity other than an entity referred to in paragraph (a)—the chief executive officer of the entity, however described; or
- (c) in all other cases—the person who made the arrangements for the activity.

participant includes:

- (a) a person engaged in the sporting activity; and
- (b) an official involved in the conduct or organisation of the sporting activity; and
- (c) a spectator of the sporting activity.

19 Direction requiring COVID-19 Safety Plans

The organiser of a community sporting activity that involves a gathering of more than 100 participants must:

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- (a) have and comply with a COVID-19 Safety Plan that addresses the matters required by the approved COVID-19 safety checklist set out opposite the type of event in column 2 of Schedule 1; and
 - (b) keep a copy of the COVID-19 Safety Plan and make it available for inspection by an emergency services officer as requested.

20 Direction concerning maximum number of participants

The organiser of a community sporting activity must ensure the maximum number of participants in the community sporting activity is the lesser of the following number of participants:

- (a) the number of persons equivalent to one person per 2 square metres of space of the premises in which the activity is conducted;
- (b) 3,000 participants.

21 Community sporting activities to which this Division does not apply

This Division does not apply to:

- (a) a gathering on premises for which a person is required by section 9 to develop and keep a COVID-19 Safety Plan; or
- (b) a gathering listed in Schedule 2; or
- (c) a community sporting activity that is a controlled outdoor public gathering.

Division 5—Outdoor rehearsals or performances

22 Definitions

In this Division:

organiser of an outdoor rehearsal or performance means the person principally responsible for organising the rehearsal or performance.

participant, in relation to an outdoor rehearsal or performance, includes:

- (a) a person engaged in the rehearsal or performance; and
- (b) a spectator of the rehearsal or performance.

23 Direction requiring COVID-19 Safety Plans

The organiser of an outdoor rehearsal or performance that involves a gathering of more than 100 participants must:

- (a) have and comply with a COVID-19 Safety Plan that addresses the matters required by the approved COVID-19 safety checklist set out opposite the type of event in column 2 of Schedule 1; and
- (b) keep a copy of the COVID-19 Safety Plan and make it available for inspection by an emergency services officer as requested.

24 Direction concerning maximum number of participants

The organiser of an outdoor rehearsal or performance must ensure the maximum number of participants in the outdoor rehearsal or performance is the lesser of the following number of participants:

- (a) the number of participants equivalent to one person per 2 square metres of space of the premises in which the activity is conducted;
- (b) 3,000 participants.

25 Direction of Minister about allocated seating

The organiser of an outdoor rehearsal or performance must ensure that all persons attending the rehearsal or performance as spectators of the outdoor rehearsal or performance are assigned to a specific seat or to a seating area.

26 Outdoor rehearsals or performances to which this Division does not apply

This Division does not apply to:

- (a) a gathering on premises for which a person is required by section 9 to develop and keep a COVID-19 Safety Plan; or
- (b) a gathering listed in Schedule 2; or
- (c) an outdoor rehearsal or performance that is a controlled outdoor public gathering.

Division 6—Outdoor public gatherings

27 Direction concerning outdoor public gatherings

- (1) A person must not participate in an outdoor public gathering of more than 100 persons.
- (2) This section does not apply to a person who is:
 - (a) engaged in work; or
 - (b) providing care or assistance to vulnerable persons.
- (3) This section does not apply to the following:
 - (a) a gathering on premises for which a person is required by section 9 to develop and keep a COVID-19 Safety Plan;
 - (b) a community sporting activity for which a person is required by section 19 to develop and keep a COVID-19 Safety Plan;
 - (c) an outdoor rehearsal or performance for which a person is required by section 23 to develop and keep a COVID-19 Safety Plan,
 - (d) a gathering listed in Schedule 2;
 - (e) a gathering of persons who are all from the same household;
 - (f) a significant event;
 - (g) a gathering to provide emergency assistance to a person or persons;
 - (h) a gathering necessary for the person to fulfil a legal obligation;
 - (i) a gathering of persons on real property to enable persons to view or inspect the real property for the purposes of the sale or lease of the real property;

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- (j) a gathering of persons at a display home or other display premises to enable persons to view or inspect the display home or display premises for the purposes of the sale or lease of real property;
 - (k) a controlled outdoor public gathering.
- (4) This section does not apply to an outdoor public gathering if:
- (a) the gathering is for the purpose of a protest or demonstration about a governmental or political matter; and
 - (b) the gathering consists of no more than 3,000 persons; and
 - (c) the person who is principally responsible for organising the gathering:
 - (i) has and complies with a COVID-19 Safety Plan that addresses the matters required by the approved COVID-19 safety checklist set out opposite the type of event in column 2 of Schedule 1; and
 - (ii) keeps a copy of the COVID-19 Safety Plan while the gathering occurs at the place the gathering is held or begins and makes it available for inspection by an emergency services officer as requested.

28 Direction concerning controlled outdoor public gatherings

- (1) In this section:

organiser of a controlled outdoor public gathering means the person principally responsible for organising the gathering.

- (2) The organiser of a controlled outdoor public gathering must:
- (a) have and comply with a COVID-19 Safety Plan that addresses the matters required by the approved COVID-19 safety checklist set out opposite the type of event in Column 2 of Schedule 1; and
 - (b) keep a copy of the COVID-19 Safety Plan and make it available for inspection by an emergency services officer as requested.
- (3) The organiser of a controlled outdoor public gathering must ensure that all persons participating in the gathering, other than persons engaged in work, are assigned to specific seats or to a seating area.
- (4) The organiser of a controlled outdoor public gathering must ensure that the maximum number of persons participating in the gathering is the lesser of the following number of persons:
- (a) for a gathering at which persons participating in the gathering are assigned specific seats:
 - (i) the number of persons equivalent to one person per 2 square metres of space of the premises in which the activity is conducted; or
 - (ii) 5,000 persons;
 - (b) for a gathering at which persons participating in the gathering are assigned to a seating area, but not to specific seats:
 - (i) the number of persons equivalent to one person per 2 square metres of space of the premises in which the activity is conducted; or
 - (ii) 3,000 persons;

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- (5) The organiser of a controlled outdoor public gathering must ensure that the gathering does not last longer than 5 hours.
 - (6) This section does not apply to the following:
 - (a) a gathering on premises for which a person is required by section 9 to develop and keep a COVID-19 Safety Plan;
 - (b) a gathering listed in Schedule 2.

Division 7—Use of premises for specific activities

29 Direction concerning holiday homes and short-term rentals

The occupier of premises may not allow the premises to be used for the purpose of a holiday home or a short-term rental for more than 50 persons unless all of those persons are from the same household.

30 Direction concerning auctions, open houses or other inspections or viewings

- (1) If a real estate agent is engaged to sell or lease real property, the agent must ensure that an auction, open house or other inspection or viewing of the property is conducted in compliance with a relevant COVID-19 Safety Plan.
- (2) In this section:

real estate agent has the same meaning as in the *Property and Stock Agents Act 2002* (NSW).

relevant COVID-19 Safety Plan means a COVID-19 Safety Plan that addresses the matters required by the approved COVID-19 safety checklist for auctions and open houses.

31 Direction for religious services held on premises other than place of public worship

The person principally responsible for organising a religious service on premises other than a place of public worship must:

- (a) have and comply with a COVID-19 Safety Plan that addresses the matters required by the approved COVID-19 safety checklist set out opposite the type of event in column 2 of Schedule 1; and
- (b) keep a copy of the COVID-19 Safety Plan on the premises and make it available for inspection by an emergency services officer as requested.

Part 3—Recording contact details

32 Direction concerning persons providing contact details

- (1) A person who enters premises specified in Schedule 3, subject to the exceptions in the Schedule, must provide the person's contact details to the occupier of the premises in accordance with this section.

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- (2) The occupier of the premises must require a person specified in subsection (1) to provide the person's contact details in accordance with this section.
- (3) A person is to provide the person's contact details as follows:
- (a) directly to the occupier of the premises; or
 - (b) by electronically registering the person's contact details by means of a mobile phone or other device at the time the person enters the premises with the occupier of the premises.

Note: For example, electronically registering a person's contact details may be by the use of a QR code or another electronic method that records the person's name, telephone number or email address and the time at which the person entered the premises.

- (4) The occupier of the premises must:
- (a) keep, for at least 4 weeks, a record of the contact details; and
 - (b) on request, provide the record to an emergency services officer as soon as practicable, but no later than 4 hours, after the request is made; and
 - (c) ensure that a person is:
 - (i) responsible for requiring contact details to be provided in accordance with this section; and
 - (ii) authorised to provide records to an emergency services officer under paragraph (b).
- (5) If a significant event or religious service is held or conducted at an outdoor public place, other than a place specified in Part 1 of Schedule 3, the person organising, conducting or otherwise officiating at the event or service is taken to be the occupier of the premises for the purposes of this section.
- (6) If a person cannot complete the electronic registration of the person's contact details because of age, disability or an inability to speak or comprehend the language used by the electronic registration device, another person may complete the registration on the person's behalf.
- (7) However, this section does not apply to the occupier of premises other than a gymnasium, a nightclub or a hospitality venue that is not a take away food or drink premises if:
- (a) the premises is wholly contained within, and is only accessible through, another premises (the *main premises*); and
 - (b) the occupier of the main premises is required to keep a record of the contact details of persons entering the main premises in accordance with this section.

- (8) In this section:

contact details, of a person who entered premises mentioned in subsection (1), means:

- (a) the person's name; and
- (b) the person's telephone number or email address; and
- (c) the time at which the person entered the premises.

Part 4—Prohibition on spitting and coughing

33 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;
 - (b) 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)(b), 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.

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).

Part 5—COVID-19 self-isolation

34 Direction—persons diagnosed with COVID-19 must self-isolate

- (1) A diagnosed person must, immediately after receiving the diagnosis of COVID-19, travel directly to:
 - (a) a residence or place that has been determined by a designated health practitioner to be suitable for the person to reside in; or
 - (b) if determined as necessary by a designated health practitioner—a hospital for assessment by a medical practitioner; or
 - (c) if the person is from a State or the Australian Capital Territory and a designated health practitioner considers it appropriate for the person to return to that State or Territory—a residence, hospital or other place in that State or Territory that has been determined by the designated health practitioner to be suitable for the person.
- (2) A diagnosed person referred to in paragraph (1)(b) must, immediately after leaving or being discharged from the hospital, travel directly to a residence or place that has been determined by a designated health practitioner to be suitable for the person to reside in.
- (3) A diagnosed person referred to in paragraph (1)(a) or subsection (2) must:

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- (a) reside at the residence or place until medically cleared; and
 - (b) provide the address of the residence or place and a contact telephone number to the designated health practitioner.
 - (4) While residing at the residence or place determined under this section, the diagnosed person must do the following:
 - (a) not leave the residence or place except:
 - (i) for the purposes of obtaining medical care or medical supplies; or
 - (ii) in any other emergency situation;
 - (b) not permit any other person to enter the residence or place unless:
 - (i) that other person usually lives at the residence or place or the other person is also complying with a requirement under this Direction; or
 - (ii) the entry is for medical or emergency purposes; or
 - (iii) the entry is to a place (other than a residence) for the purposes of delivering food or essential items;
 - (c) otherwise comply with the NSW Health self-isolation guideline.
 - (5) A diagnosed person must, if directed to do so by an emergency services officer, immediately provide the following information to the emergency services officer:
 - (a) details of the diagnosed person's contact with other persons within the previous 28 days, including their name and contact details (if known);
 - (b) details of the places the diagnosed person has been within the previous 28 days.

35 Direction—close contacts of persons diagnosed with COVID-19 must self-isolate

- (1) A close contact must, if directed in writing to do so by an emergency services officer, immediately travel directly to:
 - (a) a residence or to a place that has been determined by the emergency services officer to be suitable for the close contact to reside in; or
 - (b) if the person is from a State or the Australian Capital Territory and a designated health practitioner considers it appropriate for the person to return to that State or Territory—a residence, hospital or other place in that State or Territory that has been determined by the designated health practitioner to be suitable for the person.
- (2) A close contact referred to in subsection (1) must reside at the residence or other suitable place for the period of time, not exceeding 14 days, determined by the emergency services officer and notified in writing to the close contact.
- (3) A close contact referred to in subsection (1) who intends to reside at a residence or place must provide the address of the residence or place and a contact telephone number to the emergency services officer.
- (4) While residing at the residence or place determined under this section, the close contact must do the following:
 - (a) not leave the residence or place except:

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- (i) for the purposes of obtaining medical care, including a test for COVID-19, or medical supplies; or
 - (ii) in any other emergency situation;
 - (b) not permit any other person to enter the residence or place unless:
 - (i) that other person usually lives at the residence or place or the other person is also complying with a requirement under this Direction; or
 - (ii) the entry is for medical or emergency purposes; or
 - (iii) the entry is to a place (other than a residence) for the purposes of delivering food or essential items;
 - (c) otherwise comply with the NSW Health self-isolation guideline.

Part 6—COVID-19 affected areas

36 Definitions

In this Part:

ACT COVID-19 Affected Areas Direction means:

- (a) the *Public Health (COVID-19 Affected Areas) Emergency Direction 2021 (No 4)* (the **original Direction**), as made by the chief health officer under section 120 of the *Public Health Act 1997* (ACT) as in force in the Australian Capital Territory; or
- (b) any subsequent direction made under section 120 of that Act which revokes and replaces the original Direction or a replacement direction; or
- (c) any subsequent direction made under section 120 of that Act to alleviate an emergency declared by a COVID-19 declaration under section 119 of that Act, and which defines 'affected person' and directs an affected person to undertake a period of quarantine (however described).

Note: Section 102 of the *Legislation Act 2001* (ACT) deals with references to laws including references to laws as in force from time to time and repealed and remade laws.

affected person means a person who is an affected person within the meaning of the ACT COVID-19 Affected Areas Direction applying as if the Territory formed part of the Australian Capital Territory.

essential services includes the following:

- (a) emergency services;
- (b) freight and logistics;
- (c) the maintenance and repair of critical infrastructure;
- (d) health services;
- (e) law enforcement;
- (f) Commonwealth defence and security services.

37 Direction about potential affected person providing information for entry

- (1) A person must, if required to do so by an emergency services officer, provide information (including photo identification) to allow a decision to be made about whether the person is an affected person.

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- (2) An emergency services officer may require information under subsection (1) only if the officer suspects on reasonable grounds that the person may be an affected person.
 - (3) A person who provides information in response to requirement under this section must ensure that the information is true and accurate.

38 Direction—certain persons must not enter or remain in the Territory

- (1) An affected person must not enter, or remain in, the Territory unless:
 - (a) the person's usual place of residence is in the Territory; or
 - (b) the person enters, or remains in, the Territory for any of the following purposes:
 - (i) to obtain medical or other care;
 - (ii) to fulfil a legal obligation or giving effect to a court order;
 - (iii) to provide an essential service.
- (2) An affected person who is not a resident of the Territory must leave the Territory if asked to do so by an emergency services officer.

39 Direction concerning persons from COVID-19 affected areas

- (1) An affected person must, immediately on entering the Territory, travel directly to:
 - (a) the person's place of residence; or
 - (b) another place that is suitable for the person to reside in.
- (2) An affected person must remain at the person's place of residence or other suitable place for the ACT required quarantine period.
- (3) While residing at the residence or suitable place under this Direction, the affected person must do the following:
 - (a) not leave the residence or place except:
 - (i) for the purposes of obtaining medical care or medical supplies; or
 - (ii) for the purposes of complying with a legal obligation; or
 - (iii) in an emergency situation; or
 - (iv) to provide an essential service; or
 - (v) to leave the Territory by a direct route;
 - (b) not allow any other person to enter the residence or place unless:
 - (i) that other person usually lives at the residence or place or the other person is also complying with an obligation under this Direction; or
 - (ii) the entry is for medical or emergency purposes; or
 - (iii) the entry is to a place (other than a residence) for the purposes of delivering food or essential items;
 - (c) otherwise comply with the NSW Health self-isolation guideline.
- (4) An affected person must, when not at the person's usual place of residence or other suitable place mentioned in subsection (1), take all reasonable steps to minimise contact with other persons.

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- (5) This section does not apply to an affected person who has been quarantined in a State or the Australian Capital Territory for a continuous period of 14 days since the person has been in the relevant COVID-19 affected area and who provides documentary evidence to an emergency services officer that the person has completed the 14 day quarantine period.
 - (6) To avoid doubt, this section applies to an affected person who at the time the person entered the Territory was not an affected person for the purposes of the ACT COVID-19 Affected Areas Direction.
 - (7) In this section:

ACT required quarantine period, in relation to an affected person, means the length of the period of quarantine (however described) the person would be directed to undertake by the ACT COVID-19 Affected Areas Direction if that person were in the Australian Capital Territory.

COVID-19 affected area has the same meaning as in the ACT COVID-19 Affected Areas Direction but does not include the Territory or a location in the Territory.

40 Other directions concerning affected persons

To avoid doubt, an affected person must comply with any other provisions applicable to the person under this Direction (including in respect of isolation under section 34 or 35).

Part 7—Exemptions and enforcement

41 Exemptions

- (1) Subject to subsection (2), an emergency services officer may, in writing and subject to the conditions that the officer considers appropriate, grant an exemption to this Direction or specified provisions of this Direction.
- (2) An emergency services officer may, in writing and subject to the conditions that the officer considers appropriate, exempt a person from the operation of section 34 or 35 if satisfied it is necessary to protect the health and wellbeing of any member of the public.
- (3) Subsection (1) does not apply to section 33.
- (4) A person who is granted an exemption under subsection (1) or (2) must comply with any conditions imposed.

42 Enforcement

- (1) If a person fails to comply with this Direction or with a condition imposed under section 41, 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.

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- (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.

Schedule 1—Premises and events requiring COVID-19 Safety Plan

Sections 9, 17, 19, 23, 27, 28, 31

Column 1	Column 2
Premises or event	Checklist
Amusement centres	Theme parks and amusement centres
Aquariums	Zoos, reptile parks and aquariums
Business premises that are used for auction houses, other than clearing houses	Auction and open houses
Business premises that are used for betting agencies	Betting agencies
Business premises that are used for nail salons, beauty salons, waxing salons, tanning salons, spas, tattoo parlours and massage parlours	Beauty and other services
Caravan parks and camping grounds	Caravan parks and camping grounds
Casinos	Pubs and clubs (including small bars, cellar doors, breweries, distilleries, casinos and karaoke bars)
Community centres	Community centres and halls
Community sporting activities	Community sporting competitions and full training activities
Controlled outdoor public gatherings	Controlled outdoor events
Corporate events	Functions and corporate event
Crematoria	General
Drive-in cinemas	Cinemas, theatres and concert halls (including drive-in cinemas)
Entertainment facilities	Cinemas, theatres and concert halls (including drive-in cinemas)
Food and drink premises	Restaurants and cafes (including food courts and other food and drink premises)
Food courts	Restaurants and cafes (including food courts and other food and drink premises)
Function centres	Function centres
Funeral homes	General
Funerals and memorial services and gathering after funerals and memorial services	Funerals, memorial services and wakes
Gymnasiums	Indoor gymnasiums
Information and education facilities (other than libraries)	Museums and galleries
Libraries	Libraries
Markets	Non-food markets

Column 1	Column 2
Premises or event	Checklist
Micro-breweries, small distilleries holding a drink on-premises authorisation under the ACT liquor legislation or cellar door premises	Pubs and clubs (including small bars, cellar doors, breweries, distilleries, casinos and karaoke bars)
Outdoor rehearsals or performances	Outdoor gatherings for rehearsal and performance
Nightclubs	Pubs and clubs (including small bars, cellar doors, breweries, distilleries, casinos and karaoke bars)
Party buses	Commercial vessels (including tours, functions, parties or similar recreational activities) and party buses
Places of public worship and religious services on other premises	Places of worship and religious gatherings
Properties operated by the National Trust or the Historic Houses Trust	Museums and galleries
Protests or demonstrations about governmental or political matters	Outdoor protests
Public swimming pools (other than natural swimming pools)	Swimming pools
Pubs, small bars and registered clubs	Pubs and clubs (including small bars, cellar doors, breweries, distilleries, casinos and karaoke bars)
Recreation facilities (indoor) (other than gymnasiums)	Indoor recreation facilities (including health and dance studios and martial arts training facilities)
Recreation facilities (major) (other than theme parks)	Major recreation facilities, stadiums, showgrounds, racecourses
Sex on premises venues, being restricted premises where sex between patrons is permitted on the premises	Sex on premises
Sex services premises	Sex services
Strip clubs	Strip clubs
Theme parks	Theme parks and amusement centres
Vessels used for hosting functions or for commercial tours	Commercial vessels (including tours, functions, parties or similar recreational activities) and party buses
Wedding services and gatherings after wedding services	Wedding ceremonies and receptions
Zoological parks and reptile parks	Zoos, reptile parks and aquariums

Schedule 2—Exempted gatherings

Sections 7, 10, 21, 26, 27, 28

- 1 a gathering at an airport that is necessary for the normal business of the airport
- 2 a gathering for the purposes of or related to transportation, including in vehicles or at truck stops, stations, platforms or stops or other public transportation facilities but not a gathering on a vehicle being used as a party bus
- 3 a gathering at a hospital or other medical or health service facility that is necessary for the normal business of the facility
- 4 a gathering for the purposes of emergency services, including the provision of training by an emergency service
- 5 a gathering at a prison, correctional facility, youth justice centre or other place of custody
- 6 a gathering at a disability or aged care facility that is necessary for the normal business of the facility
- 7 a gathering at a court or tribunal
- 8 a gathering at a supermarket, market that predominately sells food, grocery store or shopping centre (but not a retail store in a shopping centre other than a supermarket, market that predominately sells food or grocery store) that is necessary for the normal business of the supermarket, market, store or centre
- 9 a gathering at an office building, farm, factory, warehouse, commercial fishing operation or mining or construction site or on a commercial vessel (excluding vessels providing tours or hosting functions) that is necessary for the normal operation of the tenants within the building, farm, factory, warehouse, commercial fishing operation or site or of the commercial vessel
- 10 a gathering at a school, university or other educational institution or child care facility that is necessary for the normal business of the school, university, institution or facility but does not include a school event that involves members of the community in addition to staff and students
- 11 a gathering at a hotel, motel or other accommodation facility that is necessary for the normal operation of accommodation services at that hotel, motel or other facility
- 12 a gathering at an outdoor area for the purposes of transiting through the place
- 13 a gathering to provide a service to assist vulnerable members of the public, including, for example, a food bank or a service providing for the needs of homeless persons
- 14 a gathering at premises that is necessary to provide the services of an early education and care facility

Schedule 3—Premises requiring entry records

Section 32

Part 1—Premises

- 1 Amusement centres
- 2 Aquariums
- 3 Business premises that are used for auction houses, other than clearing houses
- 4 Business premises that are used for nail salons, beauty salons, hairdressing salons, waxing salons, tanning salons, spas, tattoo parlours and massage parlours
- 5 Crematoria
- 6 Drive-in cinemas
- 7 Entertainment facilities
- 8 Hospitality venues as follows:
 - (a) Casinos
 - (b) Food and drink premises, other than food courts: only for a person entering the premises to consume food or drink on the premises and persons who are staff and contractors
 - (c) Micro-breweries, small distilleries holding a drink on-premises authorisation under the ACT liquor legislation and cellar door premises: only for a person entering the premises to consume food or drink on the premises and persons who are staff and contractors
 - (d) Pubs, small bars and registered clubs: for persons entering the premises, but not if the person is entering the premises solely for the purpose of collecting food or drink to consume off the premises
- 9 Function centres
- 10 Funeral homes
- 11 Information and education facilities (other than libraries)
- 12 Nightclubs
- 13 Party buses
- 14 Properties operated by the National Trust or the Historic Houses Trust
- 15 Public swimming pools
- 16 Recreation facilities (indoor)
- 17 Recreation facilities (major)
- 18 Sex on premises venues, being restricted premises where sex between patrons is permitted on the premises
- 19 Sex services premises
- 20 Strip clubs

21 Vessels used for hosting functions or for commercial tours

22 Zoological parks and reptile parks

Part 2—Premises at which the following events are being held

23 Controlled outdoor public gatherings

24 Funerals and memorial services and gatherings after funerals and memorial services

25 Wedding services and gatherings after wedding services

Note: Subsection 120(4) of the *Public Health Act 1997* (ACT) provides:
A person must not, without reasonable excuse, fail to comply with a direction under this section.
Maximum Penalty:
In the case of a natural person, \$8,000 (50 penalty units).
In the case of a body corporate, \$40,500 (50 penalty units).
In the case of a utility that is a body corporate, \$1,620,000 (2000 penalty units).