



Public Health (Jervis Bay Territory) Emergency Direction (No. 2) 2020

Public Health Act 1997 (ACT) (Jervis Bay Territory)

I, **RACHEL BACON**, Deputy Secretary, Regional 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)*:

CONSIDERING it necessary or desirable to alleviate the emergency declared under the *Public Health (Jervis Bay Territory) Emergency Declaration 2020*,

MAKE, 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 (Cwlth)*, the **DIRECTION** set out in this instrument.

Dated **1 May** 2020 at **5:35** am/pm

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

1. Name of instrument

This instrument is the *Public Health (Jervis Bay Territory) Emergency Direction (No. 2) 2020*.

2. Commencement

This instrument takes effect immediately after it is made.

3. Duration

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

4. Revocation

This instrument revokes the *Public Health (Jervis Bay Territory) Emergency Direction 2020*.

5. Definitions

In this instrument (including the Schedules to this instrument):

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.

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

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.

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.

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.

community facility means a building or place (other than educational establishment, hospital, retail premises, place of public worship or residential accommodation):

- (a) owned or controlled by a public authority or non-profit community organisation, and
- (b) used for the physical, social, cultural or intellectual development or welfare of the community.

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

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* (Cwth).

entertainment facility means a theatre, cinema, music hall, concert hall, dance hall and the like.

Federal Register of Legislation means the register established and maintained under section 15A of the *Legislation Act 2003* (Cwth).

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 a restaurant or cafe, take away food and drink premises, a pub or a small bar.

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;
- (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.

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

indoor space means an area, room or other premises that is or are substantially enclosed by a roof and walls, regardless of whether the roof or walls or any part of the roof or walls are:

- (a) permanent or temporary, or
- (b) open or closed.

information and education facility means a building or place used for providing information or education to visitors, and the exhibition or display of items, and includes an art gallery, museum, library, visitor information centre and the like.

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.

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

notifiable instrument has the same meaning as in the *Legislation Act 2003* (Cwth).

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.

outdoor space means a space that is not an indoor space.

parent, in relation to a child, includes a person who is not a parent of the child, but who has parental responsibility for, or who has care of, the child.

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 together with any 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 official means:

- (a) an emergency service officer, or
- (b) a health worker, 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* (Cwlth), or
- (f) 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.

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

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

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.

6. Direction concerning staying at home

- (1) A person must not, without reasonable excuse, leave the person's place of residence.
- (2) For the purposes of subsection (1), a reasonable excuse includes doing an activity specified by Schedule 1.
Note. Examples of a reasonable excuse in Schedule 1 include leaving for reasons involving:
 - (a) obtaining food or other goods and services, or
 - (b) travelling for the purposes of work or education if it is not possible to do it at home, or
 - (c) exercise, or
 - (d) medical or caring reasons.
- (3) Without limiting subsections (1) and (2), it is a reasonable excuse for a person to leave the person's place of residence to visit another person's place of residence for the purpose of providing care or support to the other person while no more than one other visitor is present at the place of residence visited.

- (4) A person is not to be counted as a visitor for the purposes of subsection (3) if:
 - (a) the person is a member of the household of the place of residence visited, or
 - (b) the person is under the age of 18 years and a child of a visitor at the place of residence visited, or
 - (c) the person has a reasonable excuse (apart from subsection (3)) to leave the person's place of residence to be at the place of residence visited.
- (5) Subsection (2) does not permit a person to participate in a gathering in contravention of section 7.
- (6) Taking a holiday within or outside the Territory is not a reasonable excuse.
- (7) Subsection (1) does not apply to a person who is homeless.
- (8) In this section:

providing care or support, in relation to another person, includes providing care or support for the mental, physical or emotional health or well-being of the person.

7. Direction concerning gatherings of more than 2 persons

- (1) A person must not participate in a gathering in a public place of more than 2 persons.
- (2) Subsection (1) does not apply to the following:
 - (a) a gathering referred to in Schedule 2,
 - (b) a gathering of persons for the purposes of work,
 - (c) a gathering of persons all of whom are members of the same household,
 - (d) a gathering for a wedding at which there are no more than 5 persons (including the person conducting the service),
 - (e) a gathering for a funeral service at which there are no more than 10 persons (including the person conducting the service),
 - (f) a gathering to facilitate a move to a new place of residence (including a business moving to new premises),
 - (g) a gathering to provide care or assistance to a vulnerable person,
 - (h) a gathering to provide emergency assistance,
 - (i) a gathering necessary for the person to fulfil a legal obligation (including attending a court or tribunal, satisfying bail requirements or participating in legal proceedings).

8. Direction concerning closure of certain premises

- (1) The following must not be open to members of the public except as provided in this section:
 - (a) pubs and registered clubs, except for the purposes of:
 - (i) selling food or beverages for persons to consume off the premises, or
 - (ii) if the premises include hotel or motel accommodation, providing that accommodation including by providing food or beverages to persons using that accommodation to consume in their rooms,
 - (b) food and drink premises (other than pubs), except for the purposes of:
 - (i) selling food or beverages for persons to consume off the premises, or
 - (ii) if the premises are part of hotel or motel accommodation, providing food or beverages to persons using that accommodation to consume in their rooms, or
 - (iii) if the premises are part of a shopping centre, selling food or beverages for persons to consume outside of the shopping centre, or
 - (iv) selling food or beverages to truck drivers or their passengers at a truck stop (whether for consumption on or off the premises),

Note: Food or beverages can also be sold at truck stops to persons other than truck drivers or their passengers for consumption off the premises.

- (c) entertainment facilities,
Note: The streaming of a live performance would not be prohibited as the venue is not open to the public.
- (d) amusement centres,
- (e) casinos, except for the purposes of, if the premises include hotel or motel accommodation, providing that accommodation including by providing food or beverages to persons using that accommodation to consume in their rooms,
- (f) micro-breweries or small distilleries holding a drink on-premises authorisation under the ACT liquor legislation or cellar door premises, except for the purposes of selling food or beverages for persons to consume off the premises,
- (g) recreation facilities (indoor),
- (h) places of public worship, except for the purposes of conducting the following:
 - (i) a wedding service at which there are no more than 5 persons (including the person conducting the service),
 - (ii) a funeral service at which there are no more than 10 persons (excluding persons necessary for the conduct and preparation of the funeral service),
 - (iii) a service that is being streamed or otherwise recorded at which only the persons conducting the service and persons involved in enabling it to be streamed or recorded are present,
- (i) business premises that are spas, nail salons, beauty salons, waxing salons, tanning salons, tattoo parlours or massage parlours,
- (j) business premises that are auction houses or betting agencies,
- (k) markets, but not markets that sell food,
- (l) information and education facilities,
- (m) caravan parks and camping grounds, except for the purposes of:
 - (i) accommodating permanent residents of the caravan park or camping ground, overnight travellers, persons working in the local area or other persons who have no other place of permanent residence, or whose primary place of residence is temporarily unavailable, and
 - (ii) allowing visitors to visit persons referred to in subparagraph (i),
- (n) community facilities,
- (o) sex service premises.

(2) The following must be closed to members of the public:

- (a) a public swimming pool,
- (b) a property (other than a retail shop) operated by the National Trust or the Historic Houses Trust,
- (c) a gaming lounge,
- (d) a strip club,
- (e) any outdoor playground equipment in a public place,
- (f) any outdoor gymnasium equipment in a public place,
- (g) a skate park.

(3) A person must not do the following:

- (a) conduct an open inspection of premises for the purposes of the sale or lease of the premises but a person may show a single person the premises after the person has made an appointment for that purpose,
- (b) conduct an auction at which persons attend in person (except an auction for food supply or a fibre or crop auction).

Note: An auction for food supply includes livestock for food supply.

(4) Nothing in this section prevents the use of premises:

- (a) to provide a service to assist vulnerable members of the public, for example a food bank or a service providing for the needs of homeless persons, or

- (b) as an early education and care facility.
- (5) Paragraph (1)(m) does not apply to a person who was staying at a caravan park or camping ground immediately before 26 March 2020 and who is continuing to stay at the caravan park or camping ground under a booking:
 - (a) that was made before that date, and
 - (b) that has not been extended after that date.

9. Direction concerning persons allowed on premises

Note. This direction prevents (subject to some exceptions) owners and occupiers of premises in the Territory from allowing persons to enter or stay on the premises to avoid overcrowding. However, section 7 applies to individuals and (subject to some exceptions) prevents them from gathering in groups of more than 2 persons.

- (1) A person who is the occupier or operator of premises in the Territory must not:
 - (a) for premises comprised of an outdoor space—allow 500 or more persons to enter or stay on the premises at the same time, or
 - (b) for premises comprised of an indoor space—allow 100 or more persons to enter or stay on the premises at the same time, or
 - (c) allow persons to enter or stay on the premises (whether comprised of an outdoor or indoor space) if the size of the premises is insufficient to ensure there is 4 square metres of space for each person on the premises.

Note. This section does not prevent the conduct of events (such as sporting or racing events) subject to the limits referred to in this subsection.

- (2) Subject to subsection (3), subsection (1) does not apply to:
 - (a) a person's place of residence, or
 - (b) a gathering referred to in Schedule 2.
- (3) Paragraph (1)(c) applies to a gathering referred to in item 9 of Schedule 2.

10. 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).

11. Exemptions

- (1) 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) Subsection (1) does not apply to section 10.

12. Enforcement

- (1) If a person fails to comply with this direction, an authorised person may then direct the person to do such things as are reasonably necessary to comply with this direction 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.

Schedule 1 – Reasonable excuses

- 1** obtaining food or other goods or services for the personal needs of the household or other household purposes (including for pets) and for vulnerable persons
- 2** travelling for the purposes of work if the person cannot work from the person's place of residence
- 3** travelling for the purposes of attending childcare (including picking up or dropping another person at childcare)
- 4** travelling for the purposes of facilitating attendance at a school or other educational institution if the person attending the school or institution cannot learn from the person's place of residence
- 5** exercising
- 6** obtaining medical care or supplies or health supplies or fulfilling carer's responsibilities
- 7** attending a wedding or a funeral in the circumstances referred to in paragraph 7(2)(d) and (e) or 8(1)(h)
- 8** moving to a new place of residence (including a business moving to new premises) or between different places of residence of the person or inspecting a potential new place of residence
- 9** providing care or assistance (including personal care) to a vulnerable person or providing emergency assistance
- 10** donating blood
- 11** undertaking any legal obligations
- 12** accessing public services (whether provided by Government, a private provider or a non-Government organisation), including:
 - (a) social services, and
 - (b) employment services, and
 - (c) domestic violence services, and
 - (d) mental health services, and
 - (e) services provided to victims (including as victims of crime)
- 13** for children who do not live in the same household as their parents or siblings or one of their parents or siblings—continuing existing arrangements for access to, and contact between, parents and children or siblings
- 14** for a person who is a priest, minister of religion or member of a religious order: going to the person's place of worship or providing pastoral care to another person
- 15** avoiding injury or illness or to escape a risk of harm
- 16** for emergencies or compassionate reasons

Schedule 2 – Essential gatherings

- 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
- 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
- 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 a retail store (other than a supermarket, market that predominately sells food or grocery store) that is necessary for the normal business of the store
- 10 a gathering at an office building, farm, factory, warehouse or mining or construction site that is necessary for the normal operation of the tenants within the building, farm, warehouse, factory or site
- 11 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
- 12 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
- 13 a gathering at an outdoor space where 2 or more persons may be present for the purposes of transiting through the place

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).
