

EMERGENCY MANAGEMENT ACT 2005 (WA)

Sections 67 and 72A

COVID TRANSITION (FACE COVERING) DIRECTIONS (NO 3)

The World Health Organization declared COVID-19 a pandemic on 11 March 2020.

On 15 March 2020, the Minister for Emergency Services declared a state of emergency with effect from 12 am on 16 March 2020 in respect of the pandemic caused by COVID-19 pursuant to section 56 of the *Emergency Management Act 2005 (WA) (Act) (State of Emergency)*. The State of Emergency applies to the State of Western Australia.

I, Christopher John Dawson, Commissioner of Police and State Emergency Coordinator, consider it reasonably necessary to give other directions to prevent, control or abate the risks associated with the emergency presented by the pandemic caused by COVID-19 pursuant to my powers under sections 67 and 72A of the Act.

PREAMBLE

1. The purpose of these directions is to require the wearing of a **face covering** in the **affected area** in order to prevent, control or abate the risks associated with the emergency presented by the pandemic caused by COVID-19 and to otherwise limit the spread of COVID-19.

CITATION

2. These directions may be referred to as the **COVID Transition (Face Covering) Directions (No 3)**.

COMMENCEMENT

3. These directions come into effect at 12.01 am on 3 March 2022.

REVOCATION

4. The COVID Transition (Face Covering) Directions (No 2) are revoked.

OPERATION

5. These directions apply in addition to any requirements imposed by other **directions** requiring the wearing of a face covering, and to the extent of any inconsistency, these directions prevail.

DIRECTIONS

Requirement to wear a face covering in certain places

6. Subject to paragraph 8, a person in the affected area must wear a face covering at all times while they are:
- (a) in an **indoor space**; or
 - (b) at or in a residential aged care facility, or residential disability facility, whether in an indoor space or **outdoor space**; or
 - (c) at a **hospital**; or
 - (d) in a vehicle of any kind, including one that is being used for public transport, taxi or rideshare services.

7. A person must not, in the affected area, enter or remain:
- (a) in an indoor space; or
 - (b) at or in a residential aged care facility, or residential disability facility, whether in an indoor space or outdoor space; or
 - (c) at a hospital; or
 - (d) in a vehicle of any kind, including one that is being used for public transport, taxi or rideshare services,

unless the person is wearing a face covering or one or more of the face covering exceptions in paragraph 8 apply to that person at that time.

Exceptions from face covering requirements

8. A person is not required to wear a face covering where:
- (a) the person is within or at their **home** unless another direction requires them to wear a mask at home; or
 - (b) the person is attending a gathering of persons at a home, provided that the gathering is not prohibited by these or any other directions; or
 - (c) the person is a child under the age of 8 years, except at any time the child is attending school in Year 3 and above; or
 - (d) the person is at the time attending school as a student in Year 2 or below; or

- (e) the person has a physical, developmental or mental illness, injury, condition or disability which makes wearing a face covering unsuitable; or
- (f) the person is communicating with a person who is deaf or hard of hearing and visibility of the mouth is essential for communication; or
- (g) the nature of a person's occupation means that wearing a face covering at that time is impractical to perform that occupation or creates a risk to their health and safety; or
- (h) the person needs to temporarily remove their face covering so as to enable another person to appropriately perform their occupation; or
- (i) the nature of a person's work or the activity that they are engaging in means that clear enunciation or visibility of the mouth is essential; or
- (j) the person is at that time consuming food, drink or medicine; or
- (k) the person is asked to remove the face covering to ascertain identity; or
- (l) not wearing a face covering is required for emergency purposes (other than emergency preparation or emergency preparation activities, unless another exception specified in this paragraph applies); or
- (m) the person is working in the absence of others in an enclosed indoor space (unless and until another person enters that indoor space); or
- (n) the person is a resident in a residential aged care facility or residential disability facility; or
- (o) the person is a patient in a hospital; or
- (p) the person is engaged in an activity involving swimming; or
- (q) the person is running or jogging or otherwise engaged in some form of strenuous or vigorous exercise or physical activity; or
- (r) the person is travelling in a vehicle and either is the sole occupant of that vehicle or is travelling in the vehicle with other persons provided that all the occupants of the vehicle are members of the same **household**; or
- (s) the person is undergoing medical, dental or beauty related care or treatment to the extent that such care or treatment requires that no face covering be worn; or

- (t) the person is directed by a judicial officer or tribunal member in proceedings in a court or tribunal to remove their face covering to ensure the proper conduct of those proceedings; or
- (u) the person is a prisoner or detainee in a prison, detention centre or other place of custody; or

Note: Nothing in these directions affects any other power a person may have to require a prisoner or detainee to wear a face covering.

- (v) not wearing a face covering is otherwise required or authorised by law; or
- (w) wearing a face covering is not safe in all the circumstances,

provided that:

- (x) a person is only excepted from the requirement to wear a face covering under subparagraph (e) if the person produces a medical certificate that certifies that the person has an illness, injury, condition or disability that makes wearing a face covering unsuitable:
 - (i) upon request by an **authorised officer**, and
 - (ii) if requested to do so whilst at or on any **premises**, by the **responsible person** for those premises or by the **staff** of the responsible person; and
- (y) where a person is relying on an exception under subparagraph (f) to (w), that person resumes wearing the face covering as soon as reasonably practicable after the person no longer falls within the relevant exception.

9. A patron who is requested by a responsible person or a member of staff of the responsible person to produce a medical certificate that certifies that the person has an illness, injury, condition or disability that makes wearing a face covering unsuitable must not act in a manner that is threatening, intimidating or offensive towards a **relevant officer** or any member of staff of the specified vaccination venue.

AUTHORISATION

10. For the avoidance of doubt, in addition to and without limiting any other authorisation any **relevant officer** may have to do so, all relevant officers are authorised under

section 61 of the Act to give any direction to a person for the purpose of giving effect to these directions.

INTERPRETATION

11. Unless specified otherwise, any reference in these directions to any other direction made by the State Emergency Coordinator is deemed to be a reference to that direction as amended or replaced from time to time.

DEFINITIONS

12. **Affected area** means the State of Western Australia.
13. **Authorised officer** has the same meaning that it has in the Act.
Note: At the time of making these directions, all police officers are authorised officers, and paragraph 10 ensures that relevant officers are also authorised officers for the purposes of these directions.
14. **Direction** includes any direction under the Act or the *Public Health Act 2016* (WA), whether the direction is given orally or in writing.
15. **Emergency officer** has the same meaning that it has in the *Public Health Act 2016* (WA).
16. **Face covering** means a disposable surgical mask or fitted cloth mask that covers the nose and mouth (but does not include a face shield).
17. **Home** means the premises or place where a person usually resides or other premises (such as a hotel or short stay accommodation) at which a person is able to reside.
18. **Hospital** has the same meaning as in the *Health Services Act 2016* (WA).
19. **Household** means two or more persons who usually reside at the same home, irrespective of whether those persons are related to each other.
20. **Indoor space** means an area, room or premises that is or are substantially enclosed by a roof and a **sufficient dividing structure**, regardless of whether the roof or sufficient dividing structure, or any part of them, are permanent or temporary or capable of being opened or closed.
21. **Outdoor space** means any space that is not an indoor space.

22. **Police officer** means a person appointed under Part I of the *Police Act 1892* (WA) to be a member of the Police Force of Western Australia.
23. **Premises** includes:
- (a) land (whether vacant or not); and
 - (b) land covered by water, whether permanently or temporarily or from time to time; and
 - (c) the whole or any part of a building or other structure, of whatever type and whether of a permanent or temporary nature; and
 - (d) a vehicle, including a vessel.
24. **Relevant officer** means:
- (a) an authorised officer; or
 - (b) an **emergency officer**; or
 - (c) a **responsible officer**.
25. **Responsible officer** means:
- (a) an officer, employee or contractor of the Department of Health; or
 - (b) an officer, employee or contractor of a health services provider; or
 - (c) any other person authorised by the Chief Health Officer orally or in writing to perform a function for the purposes of these directions.
26. **Responsible person**, in relation to particular premises, means the occupier or other person apparently in charge of those premises.
27. **Staff** means a person who has responsibilities at a place as an officer or employee or in some other capacity (including a voluntary capacity) and includes:
- (a) in the case of a sporting activity, coaches and officials such as umpires, referees or scorekeepers; and
 - (b) in the case of a religious service at a place of worship:
 - (i) a person who leads or presides at the service, such as an imam, priest or rabbi; and

- (ii) persons who assist the person who leads or presides at the service (including those who would ordinarily read from scripture or some other sacred text to a congregation or other group gathered to participate in the service); and
- (iii) persons present for the purpose of live streaming or recording the service.

28. **Sufficient dividing structure** means a wall or other structure which:

- (a) substantially comprises material that is impervious to air flow; and
- (b) is anchored to the ground or floor in a way which ensures that it cannot be lifted or pushed apart; and
- (c) either:
 - (i) reaches from the ground or floor to the ceiling (or roof if there is no ceiling); or
 - (ii) starts from the ground or floor and is at least 2 metres high from the ground or floor to its lowest vertical point measured from the ground or floor.

Note: In addition to meeting these requirements, a sufficient dividing structure must comply with any other legal requirements applicable to the structure in any way, including any legal requirements relating to the structural integrity of the structure (such as, but not limited to, requirements typically imposed or administered by local governments).

PENALTIES

It may be an offence to fail to comply with any of these directions, punishable by imprisonment for up to 12 months or a fine of up to \$50,000 for individuals and \$250,000 for bodies corporate.



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Christopher John Dawson
Commissioner of Police and State Emergency Coordinator

2 March 2022 2048 hours