

EMERGENCY MANAGEMENT ACT 2005 (WA)

Section 71 and 72A

CLOSURE AND RESTRICTION (LIMIT THE SPREAD) DIRECTIONS

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

On 15 March 2020, the Minister for Emergency Services declared a state of emergency with effect from 12 a.m. 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, give certain of these directions (relating to the closure of certain places) pursuant to my powers as a police officer under section 71 of the Act, and consider it reasonably necessary to give other directions to all persons in Western Australia to prevent, control or abate the risks associated with the emergency presented by the pandemic caused by COVID-19 pursuant to my powers under section 72A of the Act.

PREAMBLE

1. The purpose of these directions is to close certain places and to prohibit certain gatherings and activities in order to prevent, control or abate the risks associated with the emergency presented by the pandemic caused by COVID-19, by limiting the spread of COVID-19.

CITATION

2. These directions may be referred to as the **Closure and Restriction (Limit the Spread) Directions**.

COMMENCEMENT

3. These directions come into effect for a period commencing at 6 p.m. on 7 April 2020 and ending at 6 p.m. on 7 May 2020, or when the State of Emergency declaration is revoked, whichever occurs first.

DIRECTIONS

Prohibited gatherings

4. A person who owns, controls or operates **premises** in the State of Western Australia must not allow a **prohibited gathering** to occur on the premises.

5. A person must not organise a prohibited gathering on premises in the State of Western Australia.
6. A person must not attend a prohibited gathering on premises in the State of Western Australia.

Prohibited activities

7. A person must refrain from undertaking or engaging in a **prohibited activity**.
8. A person must not organise a prohibited activity.
9. A person must not attend a prohibited activity.

Closure of certain places of business, worship and entertainment

10. Every owner, occupier or person apparently in charge of an **affected place** must close that place to the public while these directions remain in effect.

DEFINITION OF PROHIBITED GATHERING

11. A **prohibited gathering** means:

- (a) a gathering of more than two (2) persons in a single undivided **indoor space** or a single undivided **outdoor space** that is a **public place** at the same time; or
- (b) a gathering of two (2) or more persons in a single undivided indoor space or a single undivided outdoor space at the same time, where there is not at least 4 square metres of space for each person at the gathering,

but does not include a gathering:

- (c) at an airport that is necessary for the normal business of the airport; or
- (d) for the purposes of or related to public transportation, including in vehicles or at public transportation facilities such as stations, platforms and stops; or
- (e) at a medical or health service facility that is necessary for the normal business of the facility; or
- (f) at a disability or aged care facility that is necessary for the normal business of the facility; or
- (g) for the purposes of providing care or assistance (including personal care) to a vulnerable person or providing emergency assistance; or

- (h) for the purposes of emergency services; or
- (i) at a prison, detention centre, lock up or other place of custody for the purposes of or related to the operation of that place of custody; or
- (j) at Parliament for the purposes of its normal operations; or
- (k) at a court or tribunal; or
- (l) at a food market, supermarket, grocery store, retail store or shopping centre that is necessary for the normal business of those premises; or
- (m) at an office building, factory, mining site (including mining site accommodation), construction site or other place of work that is necessary for the normal business of those premises, except premises described in paragraph 11(n); or
- (n) subject to paragraph 12, at a school, university, educational institution or childcare facility that is necessary for the normal business of the facility; or
- (o) at a hotel, motel or other accommodation facility that is necessary for the normal operation of accommodation services; or
- (p) at an outdoor place where a gathering of persons which would otherwise constitute a prohibited gathering may be present for the purpose of transiting through the place; or

Example: Forrest Place, Perth

- (q) at an indoor place where a gathering of persons which would otherwise constitute a prohibited gathering may be present for the purpose of transiting through the place; or

Examples: Perth Busport; an elevator or lift

- (r) at an indoor place or an outdoor place where everyone in the gathering is a member of the same **household**; or
- (s) at a **place of worship** for the purposes of live streaming, or recording for later broadcast or publication on television, radio, the internet or social media, of religious activities at that place of worship, provided that no more than 10 persons are present and there is at least 4 square metres of space for each person at the gathering; or

Note: under these directions places of worship remain closed to the public, other than for the purposes of a wedding or funeral. A place of worship must otherwise remain closed to the public while it is being used for the purposes of live streaming or recording religious activities.

Example: a place of worship is being used for the purposes of live streaming a religious service. The person who leads or presides at the service, such as an imam, priest or rabbi, and those who assist that person (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) can be present. In addition, persons may be present for the purpose of live streaming or recording the service. However, no more than 10 persons can be present and there must be at least 4 square metres of space for each person at the gathering and, because the place of worship remains closed to the public, no part of the congregation or other group who would ordinarily gather to participate in the service can be present (except for any person assisting the person who leads or presides at the service)

- (t) at an **entertainment venue of any other kind** for the purposes of live streaming, or recording for later broadcast or publication on television, radio, the internet or social media, of live entertainment, provided that no more than 10 persons are present and there is at least 4 square metres of space for each person at the gathering; or
- (u) at an affected place to the extent that the affected place may remain open to the public for certain purposes and the gathering is necessary for any of the purposes for which an affected place may remain open; or

Note: affected places are closed to the public, but some of them are permitted to remain open to a limited extent. Paragraph 11(u) ensures that a gathering which is necessary for any of the purposes for which an affected place may remain open will not be a prohibited gathering, provided that any other requirement imposed by these directions is complied with.

Example: a restaurant is permitted to remain open to the public to the extent that, amongst other things, it provides takeaway meals or drinks. A gathering

which is necessary for the purpose of providing takeaway meals or drinks is not a prohibited gathering

- (v) specified in writing as exempt from this direction by me, or someone authorised for that purpose by me, as the State Emergency Coordinator.

12. For the purposes of paragraph 11(n), an event at a school, university, educational institution or childcare facility that involves members of the community in addition to staff, students and (in the case of a childcare facility) children in the care of that facility is taken to be unnecessary for the normal business of the facility.

Note: The intended effect of paragraph 12 is that an event at a facility described by paragraph 11(n) which involves members of the community in addition to staff, students and children will be a prohibited gathering if it involves a gathering of persons which would, but for paragraph 11(n), constitute a prohibited gathering. Events include assemblies, sporting events or parent-teacher events.

DEFINITION OF PROHIBITED ACTIVITY

13. A **prohibited activity** means any of the following activities and whether undertaken or engaged in on a profit or not-for-profit basis:

- (a) a real estate auction; or
- (b) an open house inspection (but excluding a private inspection); or
- (c) beauty therapy services, including but not limited to tanning, waxing, massages, nail services, tattooing and piercing, but excluding hairdressing and barbering provided that a distance of at least 1.5 metres is kept between each hairdresser or barber and customer and every other hairdresser or barber and customer in the place where hairdressing or barbering services are being provided; or
- (d) personal training, whether indoors or outdoors, other than to the extent that it occurs outside and involves no more than 2 persons at a time; or
- (e) a wedding, other than to the extent that it involves no more than 5 persons; or
- (f) a funeral, other than to the extent that, excluding those persons whose presence is necessary to conduct the funeral:
 - (i) the funeral involves no more than 10 persons; or

- (ii) the funeral has been approved in writing by me, or someone authorised for that purpose by me, as the State Emergency Coordinator.

Note: the intended effect of these directions is that the maximum number of people who may gather for the purposes of a wedding or funeral is as set out in paragraph 13(e) and (f) above, provided that a gathering for a wedding or funeral is still subject to the requirement as set out in paragraph 11(b) that there be at least 4 square metres of space for each person at the gathering.

Example 1: a funeral is to be held at a single undivided indoor space 30 square metres in area. Because there must be at least 4 square metres for each person in the space, only 7 persons can attend the funeral in that space (including those persons whose presence is necessary to conduct the funeral, because there must still be at least 4 square metres for every person at a gathering unless an exemption applies under paragraph 11(v)).

Example 2: a funeral is to be held for someone with more than 10 family members who wish to attend the funeral. The funeral is to be held in a space that is large enough to allow at least 4 square metres for everyone who will be present, including all of the family members who wish to attend and those persons whose presence is necessary to conduct the funeral. Approval can be sought under paragraph 13(f)(ii) to have more than 10 persons at the funeral (excluding those persons whose presence is necessary to conduct the funeral).

DEFINITION OF AFFECTED PLACE

14. **Affected place** means any one of the following, whether operated on a profit or not-for-profit basis:
- (a) a business characterised as a pub, bar or club that supplies alcohol under a licence granted under the *Liquor Control Act 1988* (WA), but not including any part of the business constituted by a **bottleshop**; or
 - (b) a hotel, whether licensed or unlicensed, but not:
 - (i) to the extent that it provides accommodation, takeaway meals or drinks or a meal delivery service; or
 - (ii) any part of the hotel constituted by a bottleshop; or
 - (c) a gym; or

- (d) an indoor sporting centre; or
- (e) a **casino**; or
- (f) a cinema or nightclub; or
- (g) an entertainment venue of any other kind; or

Note: while an entertainment venue of any other kind must remain closed to the public, it can be used for the purposes of live streaming, or recording for later broadcast or publication on television, radio, the internet or social media, of live entertainment, provided that no more than 10 persons are present and there is at least 4 square metres of space for each person at that gathering (as described in paragraph 11(t) of these directions)

- (h) a restaurant or café (including premises selling food or drink in a food court), other than to the extent that:
 - (i) it provides takeaway meals or drinks or a meal delivery service; or
 - (ii) it provides food or drink to the homeless (and for the avoidance of doubt, the provision of food or drink to the homeless is not limited to the provision of takeaway meals or drinks or a meal delivery service); or
- (i) a place of worship, other than for the purposes of a wedding or funeral; or

Note 1: paragraph 13(e) and (f) of these directions restrict the number of persons who can be present at a wedding or funeral

Note 2: while a place of worship must otherwise remain closed to the public, it can be used for the purposes of live streaming, or recording for later broadcast or publication on television, radio, the internet or social media, of religious activities at that place of worship, provided that no more than 10 persons are present and there is at least 4 square metres of space for each person at that gathering (as described in paragraph 11(s) of these directions)

- (j) an auction house; or
- (k) a beauty parlour or salon, other than a hairdressers or barbershop; or
- (l) a nail salon; or
- (m) a tattoo parlour; or

- (n) a spa; or
- (o) a massage parlour; or
- (p) a gaming or gambling venue; or
- (q) adult entertainment premises (including but not limited to strip clubs, brothels and sex on premises venues); or
- (r) an amusement park or arcade; or
- (s) a play centre, whether indoors or outdoors; or
- (t) a community, recreation or youth centre or facility (including but not limited to community halls, clubs, Returned and Services League facilities and Police and Citizens Youth Clubs), other than to the extent that it remains open for the purpose of hosting essential voluntary or public services such as food banks or homeless services; or
- (u) a health club or fitness centre, including a centre offering yoga, barre or spin facilities; or
- (v) a sauna; or
- (w) a bathhouse; or
- (x) a wellness centre; or
- (y) a boot camp; or
- (z) a swimming pool, whether indoors or outdoors (not including a community swimming pool which is run on a non-commercial basis); or
- (aa) a gallery; or
- (bb) a museum; or
- (cc) an historic site; or
- (dd) a library; or
- (ee) a local government facility which is not essential to the continued functioning of the local government (such as, but in addition to, libraries and swimming pools); or
- (ff) a **playground**; or

- (gg) a **skate park**; or
- (hh) an **outdoor gym**; or
- (ii) any part of a **roadhouse** selling food or drink, other than to the extent that:
 - (i) it provides takeaway meals or drinks or a meal delivery service; or
 - (ii) it provides food or drink to drivers of **commercial vehicles** or **heavy vehicles** (and for the avoidance of doubt, the provision of food or drink to drivers of commercial vehicles or heavy vehicles is not limited to the provision of takeaway meals or drinks or a meal delivery service), provided that the owner, occupier or person apparently in charge of the roadhouse implements the **protocol**; or
 - (iii) it provides food or drink to the homeless (and for the avoidance of doubt, the provision of food or drink to the homeless is not limited to the provision of takeaway meals or drinks or a meal delivery service).

OTHER DEFINITIONS

- 15. **Bottleshop** means an area physically attached or adjacent to the premises of a business characterised as a pub, bar or club referred to in paragraph 14(a), or a hotel referred to in paragraph 14(b), that is for the sale of packaged alcohol to be consumed off the premises of the pub, bar, club or hotel.
- 16. **Casino** has the same meaning as in the *Casino Control Act 1984* (WA).
- 17. **Commercial vehicle** has the same meaning as in regulation 3.130 of the *Occupational Safety and Health Regulations 1996* (WA).
- 18. **Entertainment venue of any other kind** means any entertainment venue except a casino, cinema or nightclub.
- 19. **Heavy vehicle** has the same meaning as in section 6 of the *Heavy Vehicle National Law (Queensland)* (Qld).
- 20. **Household** means two or more persons who usually reside at the same place, irrespective of whether those persons are related to each other.

Example 1: four university students who share a house are members of the same household, even though they are not related to each other.

Example 2: seven members of a family who live in the same house are members of the same household even though more than 2 generations live in that house (such as grandparents, parents and children).

Example 3: three members of a family who live in the same house and a boarder who usually resides there are members of the same household, even though only some of them are related to each other.

Example 4: a child who usually moves between the child's father's home and the child's mother's home on a week-about basis is part of the father's household when the child is living with the father and is part of the mother's household when the child is living with the mother.

21. **Indoor space** means an area, room or premises that is or are substantially enclosed by a roof and walls, regardless of whether the roof or walls or any part of them are:
 - (a) permanent or temporary; or
 - (b) open or closed.
22. **Outdoor gym** means an outdoor space used for, and equipped with, facilities or equipment for exercise.
23. **Outdoor space** means a space that is not an indoor space.
24. **Place of worship** means premises used for religious activities such as a chapel, church, mosque, synagogue or temple.
25. **Playground** means an outdoor space used for, and equipped with facilities for, recreation, especially by children.
26. **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.

27. **Protocol** means the protocol specified in the document entitled "Exemption for heavy vehicle drivers to safely manage fatigue from closures of non-essential services", published by the Commonwealth Government's Department of Infrastructure, Transport, Regional Development and Communications and available at the time of making these directions at: https://www.infrastructure.gov.au/vehicles/vehicle_regulation/files/non-essential-services-exemption-rest-stop-facilities.pdf.
28. **Public place** means premises that are open to the public, or are used by the public whether or not for payment of money or other consideration, whether or not the place is ordinarily so open or used and whether or not the public to whom it is open consists of only a limited class of persons, but does not include premises being used at the relevant time for holding a wedding or funeral.
29. **Roadhouse** means a roadhouse, a roadside service station or service centre, or a similar facility, which provides services to drivers of commercial vehicles or heavy vehicles in need of food or drink, showers, restrooms or a place to break from driving to manage their fatigue.
30. **Skate park** means a facility specifically designed for skateboarding, rollerskating or rollerblading, containing structures such as ramps and basins.

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
State Emergency Coordinator and Commissioner of Police

7 April 2020 1728 hours