



VICTORIAN BAR

THE VICTORIAN BAR INCORPORATED

**GUIDE TO COVID-19 PANDEMIC
DECLARATIONS, DIRECTIONS
AND DETERMINATIONS FOR
VICTORIA**

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FOREWORD

There is no doubt that the Victorian and Commonwealth governments' declarations, directions and determinations over the past six weeks have been extraordinary and unprecedented - yet absolutely necessary to protect Australians from the health crisis, and the devastating economic fallout, the world now faces.

The measures taken have had an immense impact on how Victorians live, work and play. The State of Emergency declared last month has been extended until midnight 11 May 2020. The behavioural changes, cultural and industrial shifts range from the mundane to the inconvenient and, some would argue, are downright prejudicial to our civil liberties. Yet most of us understand that these sacrifices are our best defence in preserving the health and safety of Victorians, and our economic and social stability in the long-term.

Most people willingly abide by these measures for the greater good, but for those reluctant to comply our governments have - as we have seen - the legal authority to enforce them. The emergency powers invoked by the government exist for an eventuality like this and contingencies were in place in anticipation of a health and biosecurity crisis of precisely the kind we now face long before the emergence of this pandemic. To that end, the Commonwealth and Victorian governments had prepared for this situation by having in place legislation such as the *Biosecurity Act 2015* (Cth) and the *Public Health and Wellbeing Act 2008* (Vic) and its regulations, which give authorities specific powers to enforce measures to regulate our activity to combat both infectious disease and threats to human health on a nationally significant scale.

This thorough and useful guide has been put together by Dr Michael Taylor, a member of the Victorian Bar who practises in public law and with specialist expertise in health law and in regulatory policy, based on his knowledge, experience and exhaustive research of this legislation and current governments directives. We trust this guide will give you certainty and a clear understanding as to how our public health is being protected in the context of the COVID-19 pandemic, and the legislative foundations on which these measures are based.

It's impossible to publish a comprehensive guide that is completely accurate for all time, as the Victorian and Commonwealth governments continue to deal with the current situation. Therefore, we will continue to update the online version of this report with any new developments as they arise.



Wendy Harris QC

President

The Victorian Bar

20 April 2020

INTRODUCTION

The Victorian Bar aims to assist legal practitioners and the broader community understand the many and various COVID-19 declarations, directions and determinations made under the *Public Health and Wellbeing Act 2008* (Vic) and the *Biosecurity Act 2015* (Cth). It is presented as follows:

- **General terminology:** a number of key terms, particularly isolation and quarantine, are often used interchangeably (and thus incorrectly). The first section provides a guide to infectious diseases terminology relevant to the current legal declarations, directions and determinations.
- **Public health legislation in Victoria:** the second section is an overview of the **legislative principles** guiding the administration of the *Public Health and Wellbeing Act 2008*, along with an outline of the **public health risk powers** and the **emergency powers** that form the basis for making the Chief Health Officer's directions. These directions, and their (sometimes brief) period of operation, are set out in several tables (chronologically and grouped by objective/conceptual basis).
- **Commonwealth biosecurity emergency powers:** a summary of the biosecurity emergency powers is set out in the third section, along with COVID-19 declarations and determinations made under the *Biosecurity Act 2015* to date.
- **Documents:** a chronological index of all Victorian declarations and directions arising from the COVID-19 pandemic, from the initial declaration of a state of emergency on 16 March 2020 through to the Chief Health Officer's directions currently in force as at 27 April 2020. Links are provided to individual declarations and directions published in the *Victorian Government Gazette* ("VGG"); unpublished directions and notices are also included. Commonwealth declarations and determinations under the *Biosecurity Act 2015* (as at 27 April 2020) are also included, with links provided to individual instruments in the Federal Register of Legislation ("FRL").

Given that any compilation of "current directions" would likely be outdated prior to publication, this guide presents these documents in simple in chronological order, with the aforementioned tables indicating which of these applied at a particular time.

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GUIDE TO INFECTIOUS DISEASE TERMINOLOGY

A brief overview of infectious disease terminology to assist with interpretation of the various Chief Health Officer directions and other legal instruments associated with the COVID-19 pandemic.

Coronavirus, novel coronavirus, SARS-CoV-2 and COVID-19

Coronavirus is the term for a family of viruses that cause mild or severe disease in humans. Approximately 20% of cases of the common cold are attributed to various types of coronaviruses causing mild illness; severe illness results from other coronaviruses such as Severe Acute Respiratory Syndrome (SARS) or Middle East Respiratory Syndrome (MERS).

Novel coronavirus or *2019-nCoV* were early terms used to describe the coronavirus of current concern, now officially termed **SARS-CoV-2**, as per the International Committee on Taxonomy of Viruses.

In humans, SARS-CoV-2 infection causes an illness named **COVID-19**, as per the World Health Organization (WHO) protocol for naming of new infectious diseases.¹

Endemic, outbreak, epidemic and pandemic

An infectious disease considered to be *endemic* if it is constantly present in a geographical area. An *outbreak* occurs where there is a greater than normal number of cases of an infectious disease in an endemic area, or a single case in a new area.

An outbreak may progress to an *epidemic*, which is a situation where new cases of the infectious disease are substantially more than normal, and the spread of the disease is such that a large number of people within a community/area are affected.

A *pandemic* occurs where the epidemic spreads to multiple countries and/or continents. The term pandemic **does not** imply greater severity of illness experienced; it relates solely to geographic spread.

Isolation, quarantine and containment measures

Isolation applies to persons *known to be infected* who are isolated in places or under conditions that prevent or limit transmission of an infectious disease during the period that the disease is transmissible.²

Isolation may be on the basis of status (i.e. infection) or on the basis of status and behaviour (i.e. infection combined with certain behaviours that increase risk of transmission). Isolation may be conducted in a hospital or, if medically appropriate depending on disease severity and other factors, in other environments (e.g. the home).

¹ World Health Organization *Best Practices for the Naming of New Human Infectious Diseases* (2015), where disease names are determined in a way that does not refer to particular geographical locations, animals, individuals or groups of people to avoid stigmatization or inaccuracy. A numerical element (year of emergence in humans) is included in the name to provide for a standard format in the event of future coronavirus outbreaks.

² *International Health Regulations 2005* (WHO) definition: **isolation** means separation of ill or contaminated persons or affected baggage, containers, conveyances, goods or postal parcels from others in such a manner as to prevent the spread of infection or contamination.

Quarantine applies to persons who *have been exposed or potentially exposed* to an infectious disease, for the period the disease may be transmissible, to prevent (or limit) further transmission of the disease.³ Quarantine may be required in circumstances where the infectious disease is transmissible during the incubation period, or where very mild (possibly asymptomatic) disease is observed. A person who is quarantined may later require isolation if they develop the infection. Particular types of quarantine measures include:

- **Home quarantine:** (a.k.a. “sheltering in place”) where a person exposed or potentially exposed to the infectious disease is contained in their home on a voluntary or compulsory basis (depending on the nature of orders used).
- **Institutional quarantine:** use of specific facilities, such as hotels, dormitories, schools or large public buildings to house exposed individuals or groups of individuals.
- **Work quarantine:** for essential workers (e.g. health practitioners, hospital workers generally) to move between their workplace and specific accommodation. This strategy is used in situations where workers may be exposed in the workplace and risk spread to other members of their household, or to minimise risk of workers contracting the disease “externally” and then transmitting it within the workplace.
- **Geographic quarantine (*cordon sanitaire*):** an approach that is not quarantine in strict sense as it involves confining infected and uninfected persons within a certain area. *Cordon sanitaire* restricts movement of persons in/out of a particular geographic area with high infection rates. This is primarily a measure to reduce spread to neighbouring areas (e.g. areas with lower infection rates) but carries significant risk of transmission to uninfected persons within the restricted area. Largely an historical approach, as the restraint on liberty and risk to uninfected persons is significant, and substantial enforcement resources are required to maintain a cordon.

Containment (or community containment) measures are broader, population-level approaches to minimise risk of infectious disease transmission.

- **Travel and border controls:** these may include entry and exit screening (e.g. questions to identify high-risk travel, temperature checks, collection of passenger information to enable contact tracing or quarantine measures), travel advisories or bans in relation to high-risk geographic areas. Biosecurity measures (standard or enhanced) include disinfection of vehicles, luggage and other articles and inspection, seizure or destruction of items (depending on the nature of risk/infectious disease).
- **Social mixing and social distancing:** *decreased* social mixing and *increased* social distancing are related (but separate) measures that limit the spread of infectious diseases. *Decreased social mixing* may be achieved through closure of public places or restrictions on activities or events to reduce opportunities for human interaction and subsequent disease transmission. Measures may be specific to types of venues (e.g. restaurants, gyms) and/or activity or event (e.g. difference in measures between weddings and funerals due to the difference in social interactions between the two). *Increased social distancing* reduces transmission risk in situations where social mixing still occurs; for example, in supermarkets, workplaces or healthcare facilities.
- **Community hygiene:** basic infection control measures, such as hand washing and coughing/sneezing etiquette, have been successful in limiting the spread of infectious diseases such as influenza and SARS.

³ *International Health Regulations 2005* (WHO) definition: **quarantine** means the restriction of activities and/or separation from others of suspect persons who are not ill or of suspect baggage, containers, conveyances or goods in such a manner as to prevent the possible spread of infection or contamination

Increased uptake of basic hygiene measures is typically driven by mass education and awareness campaigns conducted at a population level or targeted to specific groups in the community.

PUBLIC HEALTH LEGISLATION IN VICTORIA

Control of infectious diseases is one of several objectives of the Victorian *Public Health and Wellbeing Act 2008* (“PHWA”) and the *Public Health and Wellbeing Regulations 2019* (“PHWR”). The PHWA includes a variety of infectious disease control measures, ranging from notification requirements for certain infectious diseases diagnosed by medical practitioners through to compulsory testing, isolation and treatment of infectious diseases in certain circumstances.⁴

Section 20 of the PHWA establishes the office of the Chief Health Officer (“CHO”), a registered medical practitioner appointed by the Secretary, Department of Health and Human Services as an officer with the powers, duties, functions and immunities conferred by the PHWA.

Administration and enforcement of the PHWA is underpinned by a series of legislative principles, and the legislation provides for a series of powers to mitigate *risks to public health* in the community generally. During a state of emergency, the PHWA enables the CHO to authorise the use of emergency powers if believed necessary to eliminate or reduce a **serious risk to public health**, defined as (PHWA s 3(1)):

serious risk to public health means a material risk that substantial injury or prejudice to the health of human beings has or may occur having regard to—

- (a) the number of persons likely to be affected;
- (b) the location, immediacy and seriousness of the threat to the health of persons;
- (c) the nature, scale and effects of the harm, illness or injury that may develop;
- (d) the availability and effectiveness of any precaution, safeguard, treatment or other measure to eliminate or reduce the risk to the health of human beings.

On 16 March 2020, the Minister for Health declared a state of emergency to exist throughout Victoria due to the serious risk to public health arising from the COVID-19 pandemic. The following provides an overview of the legislative principles and powers (public health risk powers and emergency powers) relevant to the current state of emergency, along with associated human rights considerations. All CHO directions issued during the state of emergency (as at 27 April 2020) are then discussed.

Legislative principles

The objectives of the PHWA are to achieve the highest attainable standard of public health and wellbeing through protecting public health (preventing disease, illness, injury, disability and premature death), promoting conditions in which persons can be healthy and reducing public health inequalities (PHWA s 4(2)). In administering the PHWA, regard should be had to the following principles:

- **Evidence-based decision-making (s 5):** decisions on public health should be based on evidence available in the circumstances that is relevant and reliable.
- **Precautionary principle (s 6):** if a public health risk poses a serious threat, lack of full scientific certainty should not be used as a reason for postponing measures to prevent or control the public health risk.

⁴ Such orders are rarely used in Australia; an example of an equivalent order in NSW being reviewed is *Chief Health Officer, New South Wales Department of Health v TC* [2010] NSWADT 88.

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- **Primacy of prevention (s 7):** measures that prevent disease, illness, injury, disability or premature death are preferred to remedial measures.
 - **Accountability (s 8):** administration of the *PHWA* should, as far as is practicable, ensure that decisions are transparent, systematic and appropriate.
 - **Proportionality (s 9):** decisions made and actions taken should be “proportionate to the public health risk sought to be prevented, minimised or controlled” and should not be taken in an arbitrary manner.
 - **Collaboration (s 10):** public health “can be enhanced through collaboration between all levels of Government and industry, business, communities and individuals”.

A further set of principles apply to the management and control of infectious diseases (*PHWA* s 111) under Part 8 of the *PHWA*, and a specific principle (s 112) for least restrictive measures in relation to use of compulsory orders. These principles are specific to Part 8 and do not apply to the public health risk powers and emergency powers (contained in Part 10 – Protection and Enforcement Provisions).

Public health risk powers

Part 10 (Division 1) of the *PHWA* sets out the powers to investigate, eliminate or reduce public health risks (the **public health risk powers**). Exercise of these powers is not contingent on an emergency declaration; the CHO may authorise their use if it is believed necessary to do so to investigate, eliminate or reduce a risk to public health (s 189).

If authorised by the CHO under s 189, an authorised officer may exercise any of the public health risk powers set out in s 190(1) to “investigate, eliminate or reduce the risk to public health”. In brief:

- If deemed necessary to protect public health, the s 190(1) powers allow for closure of any premises (s 190(1)(a)), inspection of premises (s 190(1)(f)), making requirements for cleaning/disinfection of premises or destruction/disposal of things (s 190(1)(g) and (h)), the ability to “direct the owner or occupier of any premises to take any action necessary to eliminate or reduce the risk to public health,” (s 190(1)(i)), or to direct any other person to take such action (s 190(1)(j)).
- An authorised officer may direct a person (or group of persons) to enter (or not enter), to remain or to leave premises (s 190(1)(b)), where any direction to remain at particular premises must specify a period of time not exceeding four hours (s 190(5)). Such a direction may be extended if considered reasonably necessary, but not so as to exceed a continuous period of 12 hours (s 190(6)).
- An authorised officer may, without warrant, enter premises and search for and seize anything necessary for the purpose of investigating, eliminating or reducing a risk to public health (s 190(1)(c)). This is subject to s 190(7), which requires that the authorised officer reasonably believe that there may be an **immediate** risk to public health, and that entry is necessary to investigate, eliminate or reduce the risk.
- A direction may be given to provide any information (s 190(1)(d)), or to a person to provide their name and address (s 190(1)(e)), for the purpose of investigating, eliminating or reducing the risk to public health. In giving a direction to provide information under s 190(1)(d), an authorised officer must also inform the person that they may refuse (or fail to provide) the information if providing the information would tend to incriminate them (s 190(8); see also s 212 on privilege against self-incrimination).

WARNINGS AND EXPLANATIONS

Before exercising a public health risk power, an authorised officer must, unless not practicable to do so:

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- Warn that refusal or failure to comply without a reasonable excuse is an offence (s 190(2)); and
 - Briefly explain to any person subject to the exercise of the power the reason why it is necessary to exercise the power (s 190(3) and (4)).

COMPLIANCE

Refusal or failure to comply with a direction given (or requirement made) under an authorised exercise of a public health risk power carries a penalty of 120 penalty units (natural person) or 600 penalty units (body corporate). A person is not guilty of an offence against s 193(1) if the person had a reasonable excuse for refusing or failing to comply with the direction or requirement (s 193(2)).

A recent amendment to the *PHWR* (made 28 March 2020) created an infringement penalty with respect to s 193(1), being 10 penalty units (natural person) or 60 penalty units (body corporate) (see [Table 4](#)).

PROVISION OF INFORMATION

A person may be directed by the CHO to provide information “which the Chief Health Officer believes is necessary to investigate whether there is a risk to public health or to manage or control a risk to public health,” (s 188(1)). In addition:

- As per s 188(2), refusal or failure to comply with a direction to provide information under s 188(1) is an offence, with penalties of 60 penalty units (natural person) or 300 penalty units (body corporate).
- A person is not guilty of an offence against s 188(1) if the person had a reasonable excuse for refusing or failing to comply with the direction (s 188(3)).
- A recent amendment to the *PHWR* (made 28 March 2020) created an infringement penalty with respect to s 188(2), being 10 penalty units (natural person) or 30 penalty units (body corporate) (see [Table 4](#)).
- This provision does not affect the privilege against self-incrimination (see s 212).

ASSISTANCE AND OTHER PROVISIONS

When exercising a public health risk power, an authorised officer may be assisted by *any* person (s 192(1)), where a request for assistance by a police officer must be made to the Chief Commissioner of Police or delegate (s 192(2)).

Other related provisions include the restriction on entry to residential premises (s 187) and the manner in which authorisation may be given (s 191).

Public health emergency powers

Under *PHWA* s 198, the Minister for Health, on advice of the CHO and in consultation with the Minister (and Emergency Management Commissioner) under the *Emergency Management Act 2013*, may declare a state of emergency arising out of any circumstances causing a *serious risk to public health*. Such a declaration:

- Must specify the emergency area in which the state of emergency exists (being throughout Victoria or in specified areas of Victoria) and specify the period the declaration continues to be in force, not exceeding four weeks.

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- A declaration may be revoked or varied at any time by the Minister or extended by another declaration for a further period of four weeks (where the total period the declaration continues in force cannot exceed six months).
 - After making, revoking or varying a declaration, the Minister must cause notice to be broadcast and be published in the *Government Gazette*.
 - The Minister must report on the state of the emergency and the exercise of public health risk powers or emergency powers to both Houses of Parliament as soon as practicable. If Parliament is not sitting, this must be at the next meeting of Parliament.

AUTHORISATION

If a state of emergency exists under s 198, the CHO may authorise the exercise of certain powers if the CHO “believes that it is necessary to grant an authorisation under this section to eliminate or reduce a serious risk to public health” (s 199(1)). The powers referred to are either the public health risk powers (s 190) or the emergency powers (s 200), and the authorisation is to Authorised Officers to exercise these powers (s 190(2)). Further:

- Authorisation may be given orally or in writing; if given orally, it must be confirmed in writing (s 201(1) and (2)); and
- An authorisation must include certain particulars, including (but not limited to) generally describing the serious risk to public health to which it relates (s 201(3));
- The CHO may extend the period of time for which an authorisation continues to be in force (s 201(4)).

EMERGENCY POWERS

If authorised under s 199, the emergency powers may be used by an authorised officer to:

- Detain any person (or group of persons) in the emergency area for the period reasonably necessary to eliminate or reduce a serious risk to public health (s 200(1)(a); subject to the limitations set out below);
- Restrict the movement of any person (or group of persons) within the emergency area (s 200(1)(b));
- Prevent any person (or group of persons) from entering the emergency area (s 200(1)(c));
- Give any other direction that the authorised officer considers reasonably necessary to protect public health (s 200(1)(d)).

Before exercising any emergency power, an authorised officer must (unless it is not practicable to do so) warn a person that a refusal (or failure to comply) without reasonable excuse is an offence (s 200(4)).

In relation to any exercise of the power to detain a person (or group of persons) under s 200(1)(a), the following additional requirements apply:

- An authorised officer must briefly explain the reason why it is necessary to detain the person (s 200(2)); if it is not practicable to do so in the particular circumstances, the authorised officer must do so as soon as is practicable (s 200(3)).
- Reasonable requests for communication from a person subject to detention must be facilitated by an authorised officer (s 200(5)).

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- At least once every 24 hours during the period the person is detained, an authorised officer must review whether continued detention of the person is reasonably necessary to eliminate or reduce a serious risk to public health (s 200(6)).
 - As per s 200(7), an authorised officer must, as soon as is reasonably practicable, give written notice to the CHO that a person has been detained under s 200(1)(a) or that they will continue to be detained following review under s 200(6). Such notice to the CHO must include the name of the person being detained and a brief statement as to why they were detained or continue to be detained (s 200(8)).
 - As soon as reasonably practicable, the CHO must advise the Minister of any s 200(7) notice (s 200(9)).

COMPLIANCE

Refusal or failure to comply with a direction given (or requirement made) under an authorised exercise of an emergency power carries a penalty of 120 penalty units (natural person) or 600 penalty units (body corporate). A person is not guilty of an offence against s 203(1) if the person had a reasonable excuse for refusing or failing to comply with the direction or requirement (s 203(2)).

A recent amendment to the *PHWR* (made 28 March 2020) created an infringement penalty with respect to s 203(1), being 10 penalty units (natural person) or 60 penalty units (body corporate) (see [Table 4](#)).

ASSISTANCE

When exercising an emergency power, an authorised officer may be assisted by any person (s 202(1)), where a request for assistance by a police officer must be made to the Chief Commissioner of Police or delegate (s 202(2)).

COMPENSATION

A person who suffers loss as a result of a decision by the CHO to give an authorisation to an authorised officer under s 199 may apply to the Secretary for compensation if the person considers that there were insufficient grounds for the giving of that authorisation (s 204(1)).

- If the Secretary decides that there were insufficient grounds, the Secretary is to pay just and reasonable compensation (s 204(2)).
- If dissatisfied with the decision of the Secretary to refuse compensation (or about the amount of compensation), the applicant may apply to VCAT for review of the Secretary's decision (s 204(7)) subject to certain timing requirements (s 204(8)).

Human rights considerations

As measures that restrict movement, personal liberty and other rights, the exercise of public health powers is to be informed by human rights obligations. Under the *International Covenant on Civil and Political Rights* ("ICCPR"), **necessary** restrictions or limitations on rights on the ground of "protection of public health or morals" may include:

- restrictions on liberty of movement (ICCPR art 12(3));
- limitations on freedom to manifest religion or beliefs (art 18(3));
- restrictions on freedom of expression (art 19(3)(b));
- restrictions on the right to peaceful assembly (art 21);

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- restrictions on right to freedom of association (art 22(2)).

Such restrictions and limitations permitted by law are to be guided by the (non-treaty) *Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights* (“*Siracusa Principles*”).
Of note:

- Under the *Siracusa Principles*, ICCPR limitations or restrictions that are **necessary** must be based on one of the recognised grounds (i.e. public health), respond to a pressing public or social need, pursue a legitimate aim and must be proportionate to that aim.
- Public health “may be invoked as a ground for limiting certain rights in order to allow a state to take measures dealing with a serious threat to the health of the population or individual members of the population. These measures must be specifically aimed at preventing disease or injury or providing care for the sick and injured.”
- Measures that derogate from ICCPR obligations must only occur in “a situation of exceptional and actual or imminent danger which threatens the life of the nation,” where a threat to the life of the nation is one that affects the whole of the population and threatens the “physical integrity of the population” (amongst other factors).

COVID-19 declarations and directions in Victoria

- **Emergency declarations:** the initial declaration of state of emergency under s 198 of the *PHWA* was made on 16 March 2020 ([Document V-01](#)), effective immediately and to operate for the statutory maximum period of four weeks. An extension to the state of emergency declaration was made on 12 April 2020 ([Document V-22](#)), effective from midnight on 13 April 2020 until midnight on 11 May 2020.
- **Stages:** the period during which lockdown “stages” applied does not include all CHO directions made under the emergency powers. The initial CHO direction ([Document V-02](#)) was made on 16 March 2020; it was not until 23 March 2020 that Stage 1 commenced. Based on CHO directions and announcements by the Premier, Stage 2 commenced from midnight 25 March 2020, and Stage 3 at midnight 30 March 2020.⁵
- **PHWA powers:** with certain exceptions, the CHO directions rely on the emergency powers to restrict movement of persons or groups (*PHWA* s 200(1)(b)) and the power to give any other direction considered reasonably necessary to protect public health (*PHWA* s 200(1)(d)). Directions relying on other powers include:
 - **Detention:** the *Direction and Detention Notice* (for persons returning from overseas after midnight on 28 March 2020; Documents [V-15](#) and [V-28](#)) relies on the detention power (s 200(1)(a)); and
 - **Business closures and restricted activities:** these directions relied on the general public health risk powers to close premises for the period of time reasonably necessary to reduce the risk to public health (*PHWA* s 190(1)(a)) and to require cleaning/disinfection of premises where the risk to public health may arise (*PHWA* s 190(1)(g)), in conjunction with the emergency direction power (*PHWA* s 200(1)(d)).
- **Definitions:** the CHO directions rely on defined terms from the *PHWA* and other legislation (especially directions relating to business closures and restrictions). Central to most directions is the *PHWA* s 3(1) definition of *premises*, which includes: (a) land (whether or not vacant); (b) the whole or any part of a

⁵ The tables of CHO directions below set out the operative period for each direction as per normal principles of interpretation: *Interpretation of Legislation Act 1984* (Vic) s 44(6)(a).

building, tent, stall or other structure (whether of a permanent or temporary nature); (c) a pontoon; (d) a vehicle; or (e) a caravan or camper-trailer.

- **Listing of CHO directions:** [Table 1](#) provides a listing of all CHO directions issued as at 27 April 2020, with revocations, effective dates and cross-referencing information (*Victorian Government Gazette* ["VGG"] details, internal numbering within this document) included for each direction.
- **Chronology of CHO directions:** [Table 2](#) is a chronological listing of CHO directions, showing effective dates relative to stage/other directions. This is intended to serve as a visual guide to the revocation information included in [Table 1](#).
- **Grouping of CHO directions:** [Table 3](#) re-organises the information in [Table 2](#) into functional groupings of directions (e.g. restrictions on individual movement). For example, [Table 3](#) shows the progression from restrictions on mass gatherings (pre-Stage 1 and Stage 1) to their prohibition (Stage 2) and then on to restrictions placed on individual movements (Stage 3).

Table 1: Listing of emergency declarations and CHO directions

Emergency declaration or CHO direction	Notes	PHWA power(s)	Specified period	Revocation
<p>Declaration of a State of Emergency</p> <p>16 March 2020</p> <p>Reference: VGG [2020] S129 p. 1 [Document V-01]</p>	<p>State of emergency arising out of the serious risk to public health in Victoria from Novel Coronavirus 2019 (2019-nCoV)</p>	<p>s 198(1)</p>	<p>Effective immediately and for four weeks from date of declaration</p>	<p>Extended by <i>Extension of Declaration of a State of Emergency</i> (12 April 2020) [V-22]</p>
<p>Direction from Chief Health Officer in accordance with emergency powers arising from declared state of emergency (“Initial CHO Direction”)</p> <p>16 March 2020</p> <p>Note: direction not published in the <i>Victorian Government Gazette</i> [see Appendix I, Document V-02]</p>	<p>Part 1: Non-essential mass gatherings</p> <p>Part 2: Self-quarantine following overseas travel</p>	<p>s 200(1)(b) and (d)</p>	<p>Noon 16 March 2020 to midnight 13 April 2020</p>	<p>Part 1 revoked by <i>Mass Gatherings Direction</i> (18 March 2020) [V-03]</p> <p>Part 2 revoked by <i>Airport Arrivals Direction</i> (18 March 2020) [V-04]</p>
<p>Mass Gatherings Directions</p> <p>18 March 2020</p> <p>Reference: VGG [2020] S135 pp. 3-4 [Document V-03]</p>	<p>Replaces: Part 1 of the <i>Initial CHO Direction</i> (16 March 2020)</p>	<p>s 200(1)(b) and (d)</p>	<p>5:00 pm 18 March 2020 to midnight 13 April 2020</p>	<p>Revoked by <i>Mass Gatherings Directions (No. 2)</i> (21 March 2020) [V-07]</p>
<p>Airport Arrivals Direction</p> <p>18 March 2020</p> <p>Reference: VGG [2020] S135 pp. 1-2 [Document V-04]</p>	<p>Replaces: Part 2 of the <i>Initial CHO Direction</i> (16 March 2020)</p> <p>Note: if this direction applied to a person prior to revocation at midnight 28 March 2020, it continues to apply to that person after revocation as if this direction had not been revoked</p>	<p>s 200(1)(b) and (d)</p>	<p>5:00 pm 18 March 2020 to midnight 13 April 2020</p>	<p>Revoked by <i>Revocation of Airport Arrivals Direction and Cruise Ship Docking Direction</i> (28 March 2020) [V-14]</p>

Emergency declaration or CHO direction	Notes	PHWA power(s)	Specified period	Revocation
<p><i>Cruise Ship Docking Direction</i></p> <p>19 March 2020</p> <p>Reference: VGG [2020] S139 pp. 1-2 [Document V-05]</p>	<p>Note: if this direction applied to a person prior to revocation at midnight 28 March 2020, it continues to apply to that person after revocation as if this direction had not been revoked</p>	s 200(1)(b) and (d)	Midday 19 March 2020 to midnight 13 April 2020	Revoked by <i>Revocation of Airport Arrivals Direction and Cruise Ship Docking Direction</i> (28 March 2020) [V-14]
<p><i>Aged Care Facilities Directions</i></p> <p>21 March 2020</p> <p>Reference: VGG [2020] S142 pp. 4-5 [Document V-06]</p>		s 200(1)(b) and (d)	6pm 21 March 2020 to midnight 13 April 2020	Revoked by <i>Care Facilities Direction</i> (7 April 2020) [V-19]
<p><i>Mass Gatherings Directions (No. 2)</i></p> <p>21 March 2020</p> <p>Reference: VGG [2020] S142 pp. 1-3 [Document V-07]</p>	<p>Revokes: <i>Mass Gatherings Direction</i> (18 March 2020)</p>	s 200(1)(b) and (d)	Midnight 21 March 2020 to midnight 13 April 2020	Revoked by <i>Prohibited Gatherings Direction</i> (25 March 2020) [V-11]
<p><i>Non-essential Business Closure Direction</i></p> <p>23 March 2020</p> <p>Reference: VGG [2020] S144 pp. 1-2 [Document V-08]</p>		s 190(1)(a) and 200(1)(d)	Noon 23 March 2020 to midnight 13 April 2020	Revoked by <i>Non-essential Activity Directions</i> (25 March 2020) [V-12]
<p><i>Hospital Visitor Directions</i></p> <p>23 March 2020</p> <p>Reference: VGG [2020] S147 pp. 1-3 [Document V-09]</p>		s 200(1)(b) and (d)	Midnight 23 March 2020 to midnight 13 April 2020	Revoked by <i>Hospital Visitor Directions (No. 2)</i> (13 April 2020) [V-25]
<p><i>Isolation (Diagnosis) Direction</i></p> <p>25 March 2020</p> <p>Reference: VGG [2020] S155 pp. 1-2 [Document V-10]</p>		s 200(1)(b) and (d)	Midnight 25 March 2020 to midnight 13 April 2020	Revoked by <i>Isolation (Diagnosis) Direction (No. 2)</i> (13 April 2020) [V-27]

Emergency declaration or CHO direction	Notes	PHWA power(s)	Specified period	Revocation
<p>Prohibited Gatherings Directions</p> <p>25 March 2020</p> <p>Reference: VGG [2020] S156 pp. 1-3 [Document V-11]</p>	<p>Revokes: <i>Mass Gatherings Direction (No. 2)</i> (21 March 2020)</p>	s 200(1)(b) and (d)	Midnight 25 March 2020 to midnight 13 April 2020	Revoked by <i>Stay at Home Directions</i> (30 March 2020) [V-17]
<p>Non-essential Activity Directions</p> <p>25 March 2020</p> <p>Reference: VGG [2020] S156 pp. 4-10 [Document V-12]</p>	<p>Revokes: <i>Non-essential Business Closure Direction</i> (23 March 2020)</p>	s 190(1)(a) and (g); s 200(1)(d)	Midnight 25 March 2020 to midnight 13 April 2020	Revoked by <i>Non-essential Activity Directions (No. 2)</i> (26 March 2020) [V-13]
<p>Non-essential Activity Directions (No. 2)</p> <p>26 March 2020</p> <p>Reference: VGG [2020] S161 pp. 1-7 [Document V-13]</p>	<p>Revokes: <i>Non-essential Activity Directions</i> (25 March 2020)</p>	s 190(1)(a) and (g); s 200(1)(d)	Midnight 26 March 2020 to midnight 13 April 2020	Revoked by <i>Restricted Activity Directions</i> (30 March 2020) [V-16]
<p>Revocation of Airport Arrivals Direction and Cruise Ship Docking Direction</p> <p>28 March 2020</p> <p>Reference: VGG [2020] s167 p. 1 [Document V-14]</p>	<p>Revokes: <i>Airport Arrivals Direction</i> (18 March 2020) and <i>Cruise Ship Docking Direction</i> (19 March 2020)</p>	s 200(1)(b) and (d)	Effective from midnight 28 March 2020	
<p>Direction and Detention Notice</p> <p>28 March 2020</p> <p>Note: this direction was not published in the <i>Government Gazette</i> [see Appendix I, Document V-15]</p>	Individual notice to persons arriving from overseas on or after midnight of 28 March 2020	s 200(1)(a)	Applies to persons arriving in Victoria from overseas on or after midnight 28 March 2020	Replaced by <i>Direction and Detention Notice (No. 2)</i> (13 April 2020) [V-28]

Emergency declaration or CHO direction	Notes	PHWA power(s)	Specified period	Revocation
<p>Restricted Activity Directions</p> <p>30 March 2020</p> <p>Reference: VGG [2020] S169 pp. 1-7 [Document V-16]</p>	<p>Revokes: <i>Non-essential Activity Directions (No. 2)</i> (26 March 2020)</p>	s 190(1)(a) and (g); s 200(1)(d)	Midnight 30 March 2020 to midnight 13 April 2020	Revoked by <i>Restricted Activity Directions (No. 2)</i> (07 April 2020) [V-20]
<p>Stay at Home Directions</p> <p>30 March 2020</p> <p>Reference: VGG [2020] S169 pp. 8-13 [Document V-17]</p>	<p>Revokes: <i>Prohibited Gatherings Directions</i> (25 March 2020)</p>	s 200(1)(b) and (d)	Midnight 30 March 2020 to midnight 13 April 2020	Revoked by <i>Stay at Home Directions (No. 2)</i> (02 April 2020) [V-18]
<p>Stay at Home Directions (No. 2)</p> <p>02 April 2020</p> <p>Reference: VGG [2020] S177 pp. 1-7 [Document V-18]</p>	<p>Revokes: <i>Stay at Home Directions</i> (30 March 2020)</p>	s 200(1)(b) and (d)	Midnight 02 April 2020 to midnight 13 April 2020	Revoked by <i>Stay at Home Directions (No. 3)</i> (07 April 2020) [V-21]
<p>Care Facilities Directions</p> <p>07 April 2020</p> <p>Reference: VGG [2020] S191 pp. 1-5 [Document V-19]</p>	<p>Revokes: <i>Aged Care Facilities Direction</i> (21 March 2020)</p>	s 200(1)(b) and (d)	Midnight 07 April 2020 to midnight 13 April 2020	Revoked by <i>Care Facilities Directions (No. 2)</i> (13 April 2020) [V-24]
<p>Restricted Activity Directions (No. 2)</p> <p>07 April 2020</p> <p>Reference: VGG [2020] S191 pp. 6-12 [Document V-20]</p>	<p>Revokes: <i>Restricted Activities Directions</i> (30 March 2020)</p>	s 190(1)(a) and (g); s 200(1)(d)	Midnight 07 April 2020 to midnight 13 April 2020	Revoked by <i>Restricted Activity Directions (No. 3)</i> (13 April 2020) [V-23]
<p>Stay at Home Directions (No. 3)</p> <p>07 April 2020</p> <p>Reference: VGG [2020] S191 pp. 13-19 [Document V-21]</p>	<p>Revokes: <i>Stay at Home Directions (No. 2)</i> (02 April 2020)</p>	s 200(1)(b) and (d)	Midnight 07 April 2020 to midnight 13 April 2020	Revoked by <i>Stay at Home Directions (No. 4)</i> (13 April 2020) [V-26]

Emergency declaration or CHO direction	Notes	PHWA power(s)	Specified period	Revocation
<p><i>Extension to Declaration of a State of Emergency</i></p> <p>12 April 2020</p> <p>Reference: VGG [2020] S193 p. 1 [Document V-22]</p>	<p>Extends: <i>Declaration of a State of Emergency</i> (16 March 2020)</p>	s 198(7)(c)	Midnight 13 April 2020 to midnight 11 May 2020	In force
<p><i>Restricted Activity Directions (No. 3)</i></p> <p>13 April 2020</p> <p>Reference: VGG [2020] S194 pp. 1-7 [Document V-23]</p>	<p>Revokes: <i>Restricted Activity Directions (No. 2)</i> (07 April 2020)</p>	s 190(1)(a) and (g); s 200(1)(d)	Midnight 13 April 2020 to midnight 11 May 2020	Revoked by <i>Restricted Activity Directions (No. 4)</i> (17 April 2020) [V-29]
<p><i>Care Facilities Directions (No. 2)</i></p> <p>13 April 2020</p> <p>Reference: VGG [2020] S194 pp. 8-12 [Document V-24]</p>	<p>Revokes: <i>Care Facilities Directions</i> (07 April 2020)</p>	s 200(1)(b) and (d)	Midnight 13 April 2020 to midnight 11 May 2020	In force
<p><i>Hospital Visitor Directions (No. 2)</i></p> <p>13 April 2020</p> <p>Reference: VGG [2020] S194 pp. 13-15 [Document V-25]</p>	<p>Revokes: <i>Hospital Visitor Directions</i> (23 March 2020)</p>	s 200(1)(b) and (d)	Midnight 13 April 2020 to midnight 11 May 2020	In force
<p><i>Stay at Home Directions (No. 4)</i></p> <p>13 April 2020</p> <p>Reference: VGG [2020] S194 pp. 16-22 [Document V-26]</p>	<p>Revokes: <i>Stay at Home Directions (No. 3)</i> (07 April 2020)</p>	s 200(1)(b) and (d)	Midnight 13 April 2020 to midnight 11 May 2020	In force
<p><i>Isolation (Diagnosis) Direction (No. 2)</i></p> <p>13 April 2020</p> <p>Reference: VGG [2020] S194 pp. 23-24 [Document V-27]</p>	<p>Revokes: <i>Isolation (Diagnosis) Direction</i> (25 March 2020)</p>	s 200(1)(b) and (d)	Midnight 13 April 2020 to midnight 11 May 2020	In force

Emergency declaration or CHO direction	Notes	PHWA power(s)	Specified period	Revocation
<p>Direction and Detention Notice (No. 2)</p> <p>13 April 2020</p> <p>Note: this direction was not published in the <i>Government Gazette</i> [see Appendix I, Document V-28]</p>	<p>Replaces: <i>Direction and Detention Notice (No. 2)</i> (28 March 2020)</p>	200(1)(a)	Applies to persons arriving in Victoria from overseas on or after midnight 13 April 2020	Applies to individuals
<p>Restricted Activity Directions (No. 4)</p> <p>17 April 2020</p> <p>Reference: VGG [2020] S199 pp. 1-7 [Document V-29]</p>	<p>Replaces: <i>Restricted Activity Directions (No. 3)</i> (13 April 2020)</p>	s 190(1)(a) and (g); s 200(1)(d)	Midnight 17 April 2020 to midnight 11 May 2020	Revoked by <i>Restricted Activity Directions (No. 5)</i> (27 April 2020) [V-30]
<p>Restricted Activity Directions (No. 5)</p> <p>27 April 2020</p> <p>Reference: VGG [2020] S205 pp. 1-8 [Document V-30]</p>	<p>Replaces: <i>Restricted Activity Directions (No. 4)</i> (17 April 2020)</p>	s 190(1)(a) and (g); s 200(1)(d)	Midnight 24 April 2020 to midnight 11 May 2020	In force

Table 2: Chronology of emergency declarations and CHO directions

Table 2A: Initial emergency declaration and CHO directions, 16 March 2020 to 13 April 2020

Declaration or direction [doc. #]	March														April																
	Stage*	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	01	02	03	04	05	06	07	08	09	10	11	12	13	
<i>Declaration of State of Emergency</i> [V-01]																															
<i>Initial CHO Direction 1: mass gatherings</i> [V-02]	(1)		(2)																												
<i>Initial CHO Direction 2: overseas travel</i> [V-02]	(1)		(2)																												
<i>Mass Gatherings Directions</i> [V-03]			(2)																												
<i>Airport Arrivals Direction</i> [V-04]			(2)												(4)													(5)			
<i>Cruise Ship Docking Direction</i> [V-05]				(1)											(4)													(5)			
<i>Aged Care Facilities Directions</i> [V-06]						(3)																									
<i>Mass Gatherings Directions (No. 2)</i> [V-07]																															
<i>Non-essential Business Closure Direction</i> [V-08]								(1)																							
<i>Hospital Visitor Directions</i> [V-09]																															
<i>Isolation (Diagnosis) Direction</i> [V-10]																															
<i>Prohibited Gatherings Directions</i> [V-11]																															
<i>Non-essential Activity Directions</i> [V-12]																															
<i>Non-essential Activity Directions (No. 2)</i> [V-13]																															
<i>Revocation Airport/Cruise Directions</i> [V-14]															(4)													(5)			
<i>Direction and Detention Notice</i> [V-15]																															
<i>Restricted Activity Directions</i> [V-16]																															
<i>Stay at Home Directions</i> [V-17]																															
<i>Stay at Home Directions (No. 2)</i> [V-18]																															
<i>Care Facilities Directions</i> [V-19]																															
<i>Restricted Activity Directions (No. 2)</i> [V-20]																															
<i>Stay at Home Directions (No. 3)</i> [V-21]																															

Table 2B: Extended emergency declaration and CHO directions, 14 April 2020 to 27 April 2020

Declaration or direction [doc. #]	April														
	Stage*	14	15	16	17	18	19	20	21	22	23	24	25	26	27

Table 3: Grouping of emergency declarations and CHO directions (16 March 2020 to 20 April 2020)

Declaration or direction [doc. #]	March														April																										
	Stage*	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	19	20				
Emergency declaration																																									
<i>Declaration of State of Emergency</i> [V-01]																																									
<i>Extension of State of Emergency</i> [V-22]																																									
Restrictions on mass gatherings																																									
<i>Initial CHO Direction 1: gatherings</i> [V-02]	(1)		(2)																																						
<i>Mass Gatherings Directions</i> [V-03]			(2)																																						
<i>Mass Gatherings Directions (No. 2)</i> [V-07]																																									
<i>Prohibited Gatherings Directions</i> [V-11]																																									
Restrictions on individual movements																																									
<i>Stay at Home Directions</i> [V-17]																																									
<i>Stay at Home Directions (No. 2)</i> [V-18]																																									
<i>Stay at Home Directions (No. 3)</i> [V-21]																																									
<i>Stay at Home Directions (No. 4)</i> [V-26]																																									
Isolation directions (persons with COVID-19 diagnosis)																																									
<i>Isolation (Diagnosis) Direction</i> [V-10]																																									
<i>Isolation (Diagnosis) Direction (No. 2)</i> [V-27]																																									
Restrictions on business and activities																																									
<i>Non-ess. Business Closure Direction</i> [V-08]								(1)																																	
<i>Non-ess. Activity Directions</i> [V-12]																																									
<i>Non-ess. Activity Directions (No. 2)</i> [V-13]																																									
<i>Restricted Activity Directions</i> [V-16]																																									
<i>Restricted Activity Directions (No. 2)</i> [V-20]																																									
<i>Restricted Activity Directions (No. 3)</i> [V-23]																																									
<i>Restricted Activity Directions (No. 4)</i> [V-29]																																									

Other COVID-19-related changes to statutory framework for public health

The *Public Health and Wellbeing Regulations 2019 (PHWR)* were made in December 2019, replacing the majority of the previous *Public Health and Wellbeing Regulations 2009*. Certain 2009 regulations relating to health and hygiene standards of hotels, motels and other forms of prescribed accommodation remain in force and are to be reviewed and remade in 2020. Since December 2019, there have been three amendments to the *PHWR*; two of these amendments are relevant to the COVID-19 pandemic.

PUBLIC HEALTH AND WELLBEING AMENDMENT (CORONAVIRUS) REGULATIONS 2020

This amendment was made on 29 January 2020 (prior to the pandemic situation), adding “Novel coronavirus 2019 (2019-nCoV)” (as it then was) to the list of **notifiable conditions** that a registered medical practitioner (Schedule 3) or pathology service (Schedule 4) must notify the Department of Health and Human Services of if diagnosed/detected. Notifiable conditions are those infectious diseases that are monitored at a population level and, in situations of outbreaks or epidemics, allow for contact tracing and other interventions.

The effect of this amendment was to ensure that all diagnosed/detected COVID-19 cases were reported to the Department of Health and Human Services from late January. Similar changes were made to public health legislation in other jurisdictions.

PUBLIC HEALTH AND WELLBEING AMENDMENT (INFRINGEMENTS) REGULATIONS 2020

This amendment was made on 28 March 2020, during the Stage 2 lockdown. *PHWR* Schedule 8 (Infringements) Table 2 (Infringement offences in the Act) was amended, adding to the prescribed offences for which an infringement notice may be issued (and to prescribe the infringement penalty).

PHWA offences prescribed by this amendment were those relating to hindering Authorised Officers, refusal to provide information necessary to investigate, manage or control a risk to public health and compliance with the public health risk powers and the emergency powers ([Table 4](#)).

Table 4: New infringement penalties for offences against PHWA

PHWA offence	Penalty	Infringement penalty
s 183: hinder or obstruct an authorised officer exercising power under Act or Regulations	60 penalty units	5 penalty units
s 188(2): refuse/fail to comply with direction to provide information believed necessary to investigate, manage or control a risk to public health	Body corporate: 300 penalty units Natural person: 60 penalty units	Body corporate: 30 penalty units Natural person: 10 penalty units
s 193(1): refuse/fail to comply with direction/requirement under s 189 (public health risk powers)	Body corporate: 600 penalty units Natural person: 120 penalty units	Body corporate: 60 penalty units Natural person: 10 penalty units
s 203(1): refuse/fail to comply with direction/requirement under s 199 (emergency powers)	Body corporate: 600 penalty units Natural person: 120 penalty units	Body corporate: 60 penalty units Natural person: 10 penalty units

COMMONWEALTH BIOSECURITY EMERGENCY POWERS

The *Biosecurity Act 2015* provides for management of diseases and pests that may harm human, animal or plant health or the environment. Chapter 2 of the *Biosecurity Act 2015* concerns management of risks to human health from *listed human diseases*. A listed human disease is one that is communicable and cause significant harm to human health (s 42). Biosecurity legislation enables various preventive measures (e.g. entry/exit requirements) as well as imposition of *human biosecurity control orders* on individuals and creation of *human health response zones* (if required).

Chapter 8, Part 2 of the *Biosecurity Act 2015* provides special powers for dealing with “emergencies involving threats or harm to human health on a nationally significant scale” (a *human biosecurity emergency*). Powers granted to the Minister for Health under this part may only be exercised by the Minister personally (s 474).

Exercise of these powers is contingent on a declaration that a human biosecurity emergency exists. Under s 475(1), the Governor-General may declare that a human biosecurity emergency exists if the Minister for Health is satisfied of the following matters:

- a listed human disease is posing a severe and immediate threat, or is causing harm, to human health on a nationally significant scale; and
- a declaration is necessary to prevent or control the entry, emergence, establishment or spread of the listed human disease in Australian territory (or part thereof).

A declaration must specify certain matters, including the “declared listed human disease”, the nature of the emergency and the conditions that gave rise to it (s 475(3)) and the *human biosecurity emergency period*, which must not be longer than the period considered necessary or, in any case, no longer than three months (s 475(4)). A human biosecurity emergency period may be extended for a period of up to three months (on more than one occasion) if required (s 476).

Biosecurity emergency requirements

During a human biosecurity emergency period, s 477 authorises the Minister for Health to determine any requirement if satisfied that it is necessary:

- to prevent or control the declared listed human disease in Australian territory (or part thereof);
- to prevent or control the spread of the declared listed human disease to another country; or
- to give effect to recommendations made to the Minister by the World Health Organization under Part III of the *International Health Regulations 2005*.

SCOPE OF REQUIREMENTS MINISTER MAY DETERMINE

The Minister for Health may determine requirements that:

- apply to persons, goods or conveyances when entering or leaving specified places (s 477(3)(a));
- restrict or prevent movement of persons, goods or conveyances in or between specified places (s 477(3)(b)); and
- specify places be evacuated and requirements for the purpose of giving effect to that recommendation (s 477(3)(c) and (d)).

MATTERS THE MINISTER MUST BE SATISFIED OF BEFORE DETERMINING REQUIREMENTS

Before determining a requirement, s 477(4) requires the Minister to be satisfied of all of the following:

- That the requirement is likely to be effective in, or contribute to, achieving the purpose for which it is to be determined (s 477(4)(a));
- That the requirement is appropriate and adapted to achieve the purpose for which it is to be determined (s 477(4)(b));
- That the requirement is no more restrictive or intrusive than required in the circumstances (s 477(4)(c));
- That the manner in which the requirement is to be applied is no more restrictive or intrusive than is required in the circumstances (s 477(4)(d)); and
- That the period during which the requirement is to apply is only as long as is necessary (s 477(4)(e)).

APPLICATION AND CESSATION

A requirement determined under s 477 applies *despite any provision of any other Australian law* (s 477(5)) and ceases to have effect at the end of the human biosecurity emergency period, or if revoked earlier (s 477(7)).

Directions

Directions (to persons) under s 478 are broadly similar to s 477 requirements in terms of purpose, scope and matters to be satisfied of before making directions. A direction may be given *despite any provision of any other Australian law* (s 478(4)).

Compliance

A person must comply with emergency requirements (s 479(1)) or directions (s 479(2)) that apply to that person. A person commits an offence if:

- A s 477(1) requirement applies to the person and the person engages in conduct that contravenes the requirement (s 479(3); penalty of five years imprisonment or 300 penalty units or both); or
- A s 478(1) direction applies to the person and the person engages in conduct that contravenes the direction (s 479(4); penalty of five years imprisonment or 300 penalty units or both).

Application of the *Biosecurity Act 2015* to COVID-19 pandemic

Table 5 lists all determinations made under the *Biosecurity Act 2015* under the emergency power to make requirements (s 477), along with three determinations under Chapter 2 powers (human health response zones, exit requirements). The initial determination under s 42(1) listing “human coronavirus with pandemic potential” as a listed human disease is also included.

Table 5: Chronology of declarations and determinations under *Biosecurity Act 2015* (Cth)

Biosecurity declaration or determination	Summary/notes	Biosecurity Act powers	Specified period	Status
<p><i>Biosecurity (Listed Human Diseases) Amendment Determination 2020</i></p> <p>21 January 2020</p> <p>Reference: FRL F2020L00037 [Document C-01]</p>	<p>Amends: <i>Biosecurity (Listed Human Diseases) Determination 2016</i> to include “human coronavirus with pandemic potential” as a listed human disease for the purposes of the <i>Biosecurity Act 2015</i></p> <p>This amendment was made prior to WHO declaration of a public health emergency of international concern as per <i>International Health Regulations 2005</i>.</p>	s 42(1)	Effective 21 January 2020	Amends: <i>Biosecurity (Listed Human Diseases) Determination 2016</i>
<p><i>Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) Declaration 2020</i></p> <p>18 March 2020</p> <p>Reference: FRL F2020L00266 [Document C-02]</p>	<p>Declares: a human biosecurity emergency to exist due to a listed human disease (human coronavirus with pandemic potential) that is “is posing a severe and immediate threat to human health on a nationally significant scale.”</p>	s 475	Effective from 18 March 2020 for three months	In force
<p><i>Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) (Emergency Requirements) Determination 2020</i></p> <p>18 March 2020</p> <p>Reference: FRL F2020L00267 [Document C-03]</p>	<p>Requirement: international cruise ships not to enter Australian ports before 15 April 2020.</p> <p>This initial set of requirements worked in conjunction with the Victorian CHO direction for self-quarantine of cruise ship passengers (<i>Cruise Ship Docking Direction</i> (19 March 2020)).</p>	s 477(1)	Effective from 18 March 2020 to 15 April 2020	Amended: see <i>Amendment Determination (No. 1)</i> (27 March 2020)
<p><i>Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) (Overseas Travel Ban Emergency Requirements) Determination 2020</i></p> <p>25 March 2020</p> <p>Reference: FRL F2020L00306 [Document C-04]</p>	<p>Requirement: Australian citizens or permanent residents not to leave Australian territory (unless exemption applies). Operators of outgoing aircraft or vessels required not to leave Australian territory with any passenger who is an Australian citizen or permanent resident (unless exemption applies).</p>	s 477(1)	From 12pm on 25 March 2020	In force

Biosecurity declaration or determination	Summary/notes	Biosecurity Act powers	Specified period	Status
<p><i>Biosecurity (Human Health Response Zone) (Swissotel Sydney) Determination 2020</i></p> <p>25 March 2020</p> <p>Reference: FRL F2020L00313 [Document C-05]</p>	<p>Determination: Swissotel Sydney as human health response zone</p> <p>Requirement: specified classes of individuals entering zone (persons evacuated from <i>Norwegian Jewel</i> cruise ship)</p>	s 113(1)	From 25 March 2020 for three months	In force
<p><i>Biosecurity (Exit Requirements) Determination 2020</i></p> <p>26 March 2020</p> <p>Reference: FRL F2020L00323 [Document C-06]</p>	<p>Requirement: biosecurity screening of individuals leaving Australian territory for Pacific Island Nations (as specified)</p>	s 45(2)	From 26 March 2020	Amended: see <i>Amendment (Nauru) Determination (2 April 2020)</i>
<p><i>Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) (Emergency Requirements for Remote Communities) Determination 2020</i></p> <p>26 March 2020</p> <p>Reference: FRL F2020L00324 [Document C-07]</p>	<p>Requirements: persons must remain outside designated areas unless exemption applies</p> <p>Application: specified areas of Queensland, Western Australia, South Australia and the Northern Territory</p>	s 477(1)	From 11:59pm 26 March 2020	Amended: see <i>Amendment Determination (No. 1) (7 April 2020)</i>
<p><i>Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) (Emergency Requirements) Amendment Determination (No. 1) 2020</i></p> <p>27 March 2020</p> <p>Reference: FRL F2020L00339 [Document C-08]</p> <p>Note: see Compilation no. 1 at FRL F2020C00239 [Document C-09]</p>	<p>Amends: <i>Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) (Emergency Requirements) Determination 2020</i></p> <p>Requirement: cruise ships not to enter Australian territory before 15 June 2020 (amended earlier requirements); foreign cruise ships must leave Australian territory</p>	s 477(1)	Amended provision from 27 March 2020	In force – see compilation

Biosecurity declaration or determination	Summary/notes	Biosecurity Act powers	Specified period	Status
<p><i>Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) (Emergency Requirements—Retail Outlets at International Airports) Determination 2020</i></p> <p>28 March 2020</p> <p>Reference: FRL F2020L00344 [Document C-10]</p>	<p>Requirement: retail outlets in designated international airports must not trade unless exempt (pharmacies, takeaway food outlets)</p> <p>Designation: of international airports (and retail outlets in international areas of designated international airports)</p>	s 477(1)	From 11:59pm 29 March 2020	In force
<p><i>Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) (Essential Goods) Determination 2020</i></p> <p>30 March 2020</p> <p>Reference: FRL F2020L00355 [Document C-11]</p> <p>Note: determination made in conjunction with the <i>Customs (Prohibited Exports) Amendment (COVID-19 Human Biosecurity Emergency) Regulations 2020</i>.</p>	<p>Requirements: (i) not to engage in price gouging in relation to essential goods; (ii) not to dispose of, or deal with, essential goods; (iii) surrender essential goods.</p> <p>Essential goods were defined as “equipment capable of limiting transmission of organisms to humans” (i.e. disposable face masks, gloves etc) as well as “disinfectant products” (alcohol wipes and hand sanitizer).</p>	s 477(1)	From 31 March 2020	In force
<p><i>Biosecurity (Exit Requirements) Amendment (Nauru) Determination 2020</i></p> <p>2 April 2020</p> <p>Reference: FRL F2020L00388 [Document C-12]</p> <p>Note: see Compilation no. 1 at FRL F2020C00264 [Document C-13]</p>	<p>Amends: <i>Biosecurity (Exit Requirements) Determination 2020</i></p> <p>Requirement: individuals leaving Australian territory to Nauru also to undergo biosecurity screening.</p>	s 45(2)	From 2 April 2020	In force – see compilation

Biosecurity declaration or determination	Summary/notes	Biosecurity Act powers	Specified period	Status
<p><i>Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) (Emergency Requirements for Remote Communities) Amendment (No. 1) Determination 2020</i></p> <p>7 April 2020</p> <p>Reference: FRL F2020L00415 [Document C-14]</p> <p>Note: see Compilation no. 1 at FRL F2020C00288 [Document C-15]</p>	<p>Amends: <i>Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) (Emergency Requirements for Remote Communities) Determination 2020</i></p> <p>Amends definition of <i>essential activity</i>, certain exemptions for entry/persons and designated areas of application in the Northern Territory.</p>	s 477(1)	From 8 April 2020	In force – see compilation
<p><i>Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) (Emergency Requirements—Public Health Contact Information) Determination 2020</i></p> <p>25 April 2020</p> <p>Reference: FRL F2020L00480 [Document C-16]</p>	<p>Requirements: specifies the conditions for: (i) collection, use or disclosure of COVIDSafe app data; (ii) treatment of COVIDSafe app data; and (iii) decryption of COVIDSafe app data.</p> <p>Includes protections for individuals against coercive use of COVIDSafe app (or data) by employers, businesses or other persons.</p>	s 477(1)	From 26 April 2020	In force

