Settled

South Australia

Emergency Management (Public Activities) (COVID-19) Direction 2020

under section 25 of the *Emergency Management Act 2004*

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Preamble

1 On 22 March 2020 I, Grantley Stevens, Commissioner of Police, being the State Co-ordinator for the State of South Australia pursuant to section 14 of the Emergency Management Act 2004 (the Act), declared pursuant to section 23 of the Act that a Major Emergency is occurring in respect of the outbreak of the Human Disease named COVID-19 within South Australia.

2 Now I, Grantley Stevens, being of the opinion that this is necessary to achieve the purposes of the Act, give the following directions pursuant to section 25 of the Act.

Part 1—Preliminary

1—Short title

This direction may be cited as the *Emergency Management (Public Activities) (COVID-19) Direction 2020*.

2—Revocation of previous directions

(1) This direction replaces the *Emergency Management (Non-Essential Business and Other Activities No 7) (COVID-19) Direction 2020* and the *Emergency Management (Gatherings No 3) (COVID-19) Direction 2020*.

(2) The *Emergency Management (Non-Essential Business and Other Activities No 7) (COVID-19) Direction 2020* and the *Emergency Management (Gatherings No 3) (COVID-19) Direction 2020* are revoked.

3—Purpose

The purpose of this direction is to impose principles and rules relating to the conduct of certain activities involving members of the public, and the management of places in which the activities occur, for the purpose of minimising the spread of the Human Disease named COVID-19 within South Australia.

4—Interpretation

In this direction, unless the contrary intention appears—

Act means the *Emergency Management Act 2004*;

auction includes any auction of property or goods (other than a purely on-line auction) and any pre-auction inspection of property or goods;

ceremonies means religious or faith based ceremonies, weddings and funerals;

contact tracing records—see clause 13(4);

defined public activity means any of the following:

(a) onsite purchase and consumption of food or beverages (whether occurring in an indoor or outdoor area);

(b) sport (including sports training), fitness or recreation activities;

Note—

When sport is undertaken outside, in connection with a clubroom, recreational centre or facility, the sport is taken to be a separate defined public activity for the purposes of complying with the maximum occupancy requirements in clause 10.

(c) indoor public meetings;

(d) ceremonies;

(e) provision of personal care services;

(f) provision of public entertainment;

(g) auctions and inspections of premises for the purpose of sale or rental of any property;

(h) driver instruction,

but does not include any activity at restricted premises;

density requirement is the requirement that the total number of persons present at a place must not exceed 1 person per 4 square metres;

driver instruction means the provision of driver training and testing by a motor driving instructor or an authorised examiner (within the meaning of the *Motor Vehicles Act 1959*) conducted inside a vehicle (other than inside a light rigid, medium rigid, heavy rigid, heavy combination or multi combination heavy vehicle);

fitness or recreation activities means—

(a) any classes or activities at gymnasiums, health clubs, fitness centres, yoga, barre and spin facilities and dance and pilates studios; or

(b) swimming or other activities at swimming pools used by the public; or

(c) boot camps or other personal training activities (whether conducted indoors or outdoors); or

(d) any other group fitness or physical recreation activity open to members of the public (whether on payment of money or otherwise);

maximum occupancy requirements—see clause 10;

member of the public includes the members of any club or association that undertakes a defined public activity;

onsite, in relation to the purchase and consumption of food and beverages, does not include purchase and consumption—

(a) of food and beverages on a takeaway basis; or

(b) of snack or hand-held food and non-alcoholic beverages by people while attending sport (including sports training), fitness or recreation activities;

personal care services means—

(a) services at beauty salons, nail salons and tattoo parlours and other premises at which beauty therapy and tanning, waxing, piercing or body modification services are provided;

(b) wellness centres, day spas and massage parlours;

physical distancing principle—a person complies with the physical distancing principle if they maintain a distance of at least 1.5 metres from other people;

place includes any premises, land, building, vehicle or other place including (to avoid doubt)—

(a) indoor or outdoor places; and

(b) residential or non-residential places; and

(c) public places; and

(d) movable places;

prohibited gathering means a gathering of more than 20 people at any place other than—

(a) a gathering described in Schedule 1; or

(b) a gathering occurring as part of a defined public activity;

public entertainment means—

(a) any concert, live theatre or other live performance; or

(b) cinema; or

(c) galleries, museums, libraries (other than libraries in educational institutions) and other public institutions; or

(d) publicly accessible historic sites; or

(e) zoos and other wildlife or animal parks; or

(f) any other place of entertainment that is open to members of the public;

public meeting means a meeting, lecture or presentation that is open to members of the public;

restricted premises means any of the following:

(a) casinos and other gaming and gambling venues;

(b) nightclubs;

(c) indoor foodcourts used for onsite purchase and consumption of food or beverages;

(d) indoor play centres;

(e) amusement parks and arcades;

(f) saunas and bathhouses (including thermal or spa bathing);

(g) premises where any re-usable equipment such as 'hookah' or other pipes, tubes, heads or any other equipment is provided for the purpose of shisha, smoking or vaping business operations, including where any such equipment is supplied for use away from business premises (for example, equipment that is hired or lent out);

sport includes any form of sport or racing (including motor sports and any form of horse or greyhound racing).

5—Powers of Authorised Officers

Nothing in this direction derogates from the powers of authorised officers to exercise powers pursuant to the Act.

IMPORTANT—

FAILURE TO COMPLY WITH THIS DIRECTION IS AN OFFENCE.

Part 2—General prohibitions

6—General prohibition on defined public activities

Except as provided in Part 3 and Part 4—

(a) a person must not allow a defined public activity to be conducted at a place occupied by the person; and

(b) a person must not conduct a defined public activity; and

(c) a consumer or member of the public must not participate in a defined public activity.

7—Restricted premises

Nothing in this direction authorises any activity at restricted premises and—

(a) a person who owns, controls or operates restricted premises must close those premises and keep those premises closed in so far as it is necessary to prohibit access to consumers or members of the public; and

(b) a consumer or member of the public must not enter into restricted premises.

8—Prohibited gatherings

(1) A person must not—

(a) allow a prohibited gathering to occur at a place occupied by the person; or

(b) organise a prohibited gathering at a place; or

(c) attend a prohibited gathering at a place.

(2) Despite paragraph (g) in Schedule 1, a person who is present in a court or tribunal building must comply with a reasonable direction of a sheriff's officer given for the purposes of implementing the density requirement and the physical distancing principle.

(3) Nothing in this clause is to be taken to prevent more than 20 people who ordinarily reside in premises from residing together in those premises.

Part 3—General compliance principles

Note—

The requirements of this Part apply to all defined public activities in addition to any special requirements that may apply under Part 4.

9—Density requirement

(1) The occupier of a place at which a defined public activity is conducted, and any person who conducts a defined public activity at a place, must ensure that the density requirement is complied with in relation to that place.

(2) In determining the size of a place for the purposes of applying the density requirement, only those parts of the place that are used by members of the public for the purposes of the activity are to be included.

(3) This clause does not apply to a vehicle or other movable place provided that a person who provides a defined public activity in a vehicle or other movable place makes and retains contact tracing records for people attending the activity.

(4) People employed or engaged to work, or undertaking official duties, for the purposes of a defined public activity are not to be counted for the purposes of this clause.

(5) To avoid doubt, infants and children of any age are to be counted for the purposes of this clause.

10—Maximum occupancy requirements

(1) The occupier of a place at which a defined public activity is conducted, and any person who conducts a defined public activity at a place, must ensure—

(a) that the number of people present for the purposes of the defined public activity in the place (as a whole) does not exceed a total of 80 people; and

(b) that not more than 20 people are present in any single room or enclosed area within the place (including where the place only consists of a single room or enclosed area).

Note—

If a restaurant occupies premises consisting of a building with multiple rooms and an outdoor area, you could, for example, have up to 60 people seated indoors and up to 20 additional people in outdoor areas of the restaurant, or any other arrangement of up to 80 people that satisfies the above requirements (provided that the other applicable requirements of this direction are also complied with).

If, however, a restaurant occupies premises consisting only of a single room, you can have up to 20 people dining at the restaurant at any one time (provided that the other applicable requirements of this direction are also complied with).

If 2 different defined public activities are undertaken in adjacent places (eg. dining in a clubhouse and playing of sport on an adjacent oval), you could have up to 80 people dining and another 80 people playing and/or watching sport at the adjacent oval (provided that the other applicable requirements of this direction are also complied with).

(2) An area or place will be taken to be a ***room*** or an ***enclosed area*** for the purposes of subclause (1)(b) if it is ***enclosed*** within the meaning of the *Tobacco and E-Cigarette Products Act 1997* (see section 4(3) and (4) of that Act).

(3) Subclause (1) does not apply in relation to a defined public activity to the extent that a provision of Part 4 specifies that a greater or lesser number of people may be present in a place, or may be present in a group at the place, where the activity is conducted.

(4) People employed or engaged to work, or undertaking official duties, for the purposes of a defined public activity (other than people who are engaged in a sport on a professional basis) are not to be counted for the purposes of subclause (1).

(5) To avoid doubt, infants and children of any age are to be counted for the purposes of subclause (1).

11—Physical distancing principle

(1) A person who is present at a place at which a defined public activity is conducted or at which any gathering of people is occurring (whether or not a prohibited gathering) must use their best endeavours (having regard to the all the circumstances, including the nature of the activity) to comply with the physical distancing principle.

(2) The occupier of a place at which a defined public activity is conducted and any person who conducts a defined public activity at a place must take reasonable steps to ensure that facilities provided at the place allow for compliance with the physical distancing principle during the conduct of the activity.

(3) The physical distancing principle does not apply to persons who live in the same household, or who are friends, family members or people who otherwise regularly associate with each other, or in circumstances specified under a provision of Part 4.

12—Restrictions on communal facilities

Communal changing rooms, shower facilities and sauna or spa facilities at a place where a defined public activity is conducted are not permitted to be used and must remain closed (but toilet facilities may be made available).

13—COVID Safe Plan and contact tracing records

(1) A person must not conduct, or be involved in the conduct of, a defined public activity unless they have completed a COVID Safe Plan (in a form made available by the State Co-ordinator on the website www.covid-19.sa.gov.au or in such other manner as the State Co-ordinator thinks fit) in relation to the activity.

(2) If a place is used for defined public activities conducted by different people, the owner of the place, or the person with care, control and management of the place, must have completed a COVID Safe Plan (in a form made available by the State Co-ordinator on the website www.covid-19.sa.gov.au or in such other manner as the State Co-ordinator thinks fit) in relation to the place.

(3) A COVID Safe Plan completed under this clause must be kept available—

(a) in relation to a plan under subclause (1)—for inspection by authorised officers, and any members of the public involved in the defined public activity, during any period during which the defined public activity is occurring; and

(b) in relation to a plan under subclause (2)—for inspection by authorised officers, and any members of the public involved in any of the defined public activities conducted at the place, during any period during which a defined public activity is occurring at the place.

(4) Where a provision of this Part or Part 4 requires a person to make and retain contact tracing records for people attending an activity, those records—

(a) must include the following details in relation to each person attending:

(i) time and date of the activity;

(ii) name of person attending (unless the person refuses to provide their name);

(iii) phone number or email address of person attending (unless the person refuses to provide a phone number or email address); and

(b) must be produced for inspection at the request of an authorised officer; and

(c) may only be used for the purpose of contact tracing in relation to COVID-19 and must not be used for any other purpose.

(5) In this clause—

authorised officer means an authorised officer appointed under the *Emergency Management Act 2004*, an authorised officer appointed under the *South Australian Public Health Act 2011* or an authorised person appointed under the *Local Government Act 1999*.

Part 4—Special compliance rules for particular defined public activities

Note—

Any applicable requirements of this Part apply in addition to the general compliance principles under Part 3.

14—Onsite purchase and consumption of food or beverages

(1) Onsite purchase and consumption of food or beverages is permitted at a place if—

(a) food and beverages (including alcohol) are only consumed by patrons while seated at tables that are physically separate from any bar or other area for taking orders; and

(b) the following facilities at the place are not permitted to be used:

(i) gaming areas (within the meaning of the *Gaming Machines Act 1992*);

(ii) gambling facilities (such as Keno);

(iii) re-usable equipment such as 'hookah' or other pipes, tubes, heads or any other equipment associated with the operation of shisha, smoking or vaping;

(iv) recreational spaces using shared equipment (such as billiards, darts or children's game consoles);

(v) dance floors; and

(c) there are no communal food or beverage service areas (such as buffets, salad bars or communal water/beverage dispensers).

(2) The physical distancing principle does not apply to people who attend as a group at a place that provides onsite purchase and consumption of food or beverages while those people are seated at the same table together.

Note—

Tables in the place should be separated as much as possible.

15—Outdoor sport (including sports training), fitness or recreation activities

Outdoor sport (including sports training) activities, fitness or recreation activities are permitted, provided that, before 25 June, any sports competition must be non-contact or involve only accidental contact.

Note—

Outdoor contact sports training is permitted from the commencement of this direction.

16—Indoor sport (including sports training), fitness or recreation activities

(1) Indoor sport (including sports training) activities and indoor fitness or recreation activities are permitted if—

(a) before 25 June—any such activity is non-contact or involves only accidental contact; and

(b) on and after 25 June—any sports competition is non-contact or involves only accidental contact; and

Note—

Indoor contact sports training is permitted on and after 25 June.

(c) in relation to any indoor fitness or recreation activities—the number of participants in the activity (ie. not including people employed or engaged to work, or undertaking official duties, for the purposes of the activity) does not exceed—

(i) in relation to group classes at gymnasiums, health clubs, fitness centres, yoga, barre and spin facilities and dance and pilates studios—10 people per room; or

(ii) in any other case—20 people per room; and

Note—

Gyms may still have up to 80 patrons on site, in any combination of up to 10 or 20 persons per room depending on the type of activity (provided that the other provisions of this direction are met).

(d) the person conducting the activity makes and retains contact tracing records for persons attending the activity.

(2) In this clause—

room has the same meaning as in clause 10.

17—Swimming pools used by public

Swimming or other activities at swimming pools used by the public are permitted if—

(a) no swimmer at the premises is accompanied by more than 1 caregiver who is not swimming; and

(b) the total number of persons in any swimming pool at the premises does not exceed 1 person per 4 square metres, up to a maximum of 20 persons per pool.

Note—

Premises may have multiple pools, in which case each pool may have up to 20 persons, provided that the maximum density of 1 person per 4 square metres is not exceeded.

Pool activities are not restricted to swimming. All water activities are permitted provided the conditions of use outlined above are met.

18—Indoor public meetings

Indoor public meetings are permitted if—

(a) all members of the public attending the meeting are seated during the conduct of the meeting; and

(b) the person conducting the meeting makes and retains contact tracing records for members of the public attending the meeting.

19—Ceremonies

(1) A ceremony is permitted if—

(a) the person conducting, or who organised, the ceremony makes and retains contact tracing records for persons attending the ceremony; and

(b) if the ceremony involves the service of any food or beverages or provision of a liquid or edible items—no shared utensils are used for that purpose.

(2) Despite clause 10, a group of up to 50 people may be present in any single room or enclosed area, or in any outdoor place, where a funeral is conducted.

20—Provision of personal care services

Personal care services may be provided if the person providing the service makes and retains contact tracing records for persons to whom the services are provided.

21—Provision of public entertainment

(1) Public entertainment may be provided if—

(a) the person conducting the entertainment makes and retains contact tracing records for persons attending the entertainment; and

(b) any entertainers providing live entertainment must comply with the physical distancing principle in relation to members of the public.

Note—

Entertainers should be separate from the public as much as possible.

(2) Despite clause 10, drive-in cinemas may have more than a total of 80 people attending if—

(a) patrons attending the drive-in cinema remain primarily seated inside, or in the immediate vicinity of, their vehicles; and

(b) any food or beverages provided (whether for purchase or otherwise) for consumption at the drive-in cinema are only consumed by patrons while seated inside, or in the immediate vicinity of, their vehicles.

22—Auctions and inspections of premises for the purpose of sale or rental of any property

Auctions and inspections of premises for the purpose of sale or rental are permitted if the person conducting the auction or inspection makes and retains contact tracing records for persons attending the auction or inspection.

23—Driver instruction

Driver instruction is permitted if—

(a) the person conducting the driver instruction makes and retains contact tracing records for all drivers; and

(b) the steering wheel and other frequently touched surfaces are cleaned between drivers.

Schedule 1—Exclusions from prohibited gatherings definition

(a) a gathering at an airport that is necessary for the normal business of the airport;

(b) a gathering for the purposes of or related to public transportation, including in vehicles or at public transportation facilities such as stations, platforms and stops;

(c) a gathering at a medical or health service facility that is necessary for the normal business of the facilities;

(d) a gathering for the purposes of emergency services;

(e) a gathering at a disability, aged care or residential care facility (including a supported residential facility or a child protection facility) that is necessary for the normal business of the facility;

(f) a gathering at a prison, correctional facility, training centre or other place of custody;

(g) a gathering at a court or tribunal;

(h) a gathering at Parliament for the purpose of its normal operations;

(i) a gathering of members or office bearers of a council, council committee, or subsidiary of a council (all within the meaning of the *Local Government Act 1999*), and other persons working or otherwise engaged in official duties, at an ordinary or special meeting of the council, council committee or subsidiary;

Note—

Members of the public attending such a meeting would still be subject to the limitations imposed under clause 8

(j) a gathering at a food market, supermarket, grocery store, retail store or shopping centre that is necessary for the normal business of those premises;

(k) a gathering at an office building, factory, laboratory or testing facility, repair or maintenance premises (such as a vehicle mechanic workshop), mining or construction site or waste disposal or processing facility that is necessary for the normal operation of those premises;

(l) a gathering on land or a vessel used in the production or treatment of primary produce (within the meaning of the *Primary Produce (Food Safety Schemes) Act 2004*) that is necessary for normal operations on the land or vessel;

(m) a gathering at a school, university, educational institution or childcare facility that is necessary for the normal business of the facility;

Note—

A school event that involves members of the community in addition to staff and students is deemed not necessary for the normal business of the facility. The intended effect is that a school event that involves members of the community in addition to staff and students will be a prohibited gathering if it involves a gathering of more than 20 persons, or a gathering of 20 or less persons that does not comply with the density requirement. School events include assemblies, sporting events or parent-teacher events.

(n) a gathering at a hotel, motel or other accommodation facility that is necessary for the normal operation of accommodation services;

(o) a gathering at a place where persons are present for the purposes of transiting through the place;

Example—

Rundle Mall

(p) a gathering specified as exempt from this direction by the State Co-ordinator (or authorised officer) in writing.

IMPORTANT—

FAILURE TO COMPLY WITH THIS DIRECTION IS AN OFFENCE.

This direction operates from the 1st day of June 2020 at 0001 hours

SIGNED at ADELAIDE on this 29th day of May 2020 at 1740 hours

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GRANTLEY STEVENS

STATE CO-ORDINATOR