

South Australia

Emergency Management (Public Activities No 10) (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.
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Part 1—Preliminary

1—Short title

This direction may be cited as the *Emergency Management (Public Activities No 10) (COVID-19) Direction 2020*.

2—Revocation of previous directions

- (1) This direction replaces the *Emergency Management (Public Activities No 9) (COVID-19) Direction 2020*.
- (2) The *Emergency Management (Public Activities No 9) (COVID-19) Direction 2020* is 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 SARS-CoV-2 the cause of the Human Disease named COVID-19 within South Australia.

4—Interpretation

- (1) In this direction, unless the contrary intention appears—
 - Act* means the *Emergency Management Act 2004*;
 - approving authority* means the Department for Health and Wellbeing (SA);
 - 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 (other than wedding ceremonies or funeral services);
 - contact tracing records*—see clause 10(4);
 - COVID Management Plan*—see clause 11;
 - COVID Safe Plan*—see clause 10;

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;
- (c) indoor public meetings;
- (d) ceremonies;
- (e) private functions;
- (f) weddings (including wedding ceremonies and receptions);
- (g) funeral services (including wakes);
- (h) provision of personal care services;
- (i) provision of public entertainment;
- (j) provision of recreational transport;
- (k) the operation of a nightclub;
- (l) the operation of relevant licensed premises;
- (m) the operation of a casino or gaming area (within the meaning of the *Gaming Machines Act 1992*);
- (n) auctions and inspections of premises for the purpose of sale or rental of any property;
- (o) driver instruction;

Department means the Department for Health and Wellbeing (SA);

density requirement is—

- (a) the requirement that the total number of persons present at a place must not exceed 1 person per 2 square metres; and
- (b) in relation to a defined public activity at a place, the requirement that—
 - (i) the total number of persons present for the purposes of the defined public activity at the place (as a whole) must not exceed 1 person per 2 square metres; and
 - (ii) the total number of persons present in any single room or enclosed area within the place (including where the place only consists of a single room or enclosed area) must not exceed 1 person per 2 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);

holiday accommodation means—

- (a) caravan parks; or
 - (b) camping grounds;
 - (c) houseboats; or
 - (d) short term rental accommodation;
- excluding accommodation used as residential premises;

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

nightclub includes (but is not limited to) licensed premises under the *Liquor Licensing Act 1997* where the principal purpose of, or predominant activity at, the premises is the consumption of liquor, the playing of loud, amplified music and dancing;

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

- (a) of food and beverages which are taken away from the premises; or
- (b) of food and beverages from a single serve food or beverage automated dispensing machine (whether the payment for the food or beverage involves the insertion of money into the machine or payment over a counter or payment terminal); or
- (c) of snack or hand-held food and non-alcoholic beverages by people while attending sport (including sports training), fitness or recreation activities; or
- (d) of alcoholic beverages by spectators at a sporting event, provided that alcoholic beverages are consumed while seated;

permitted gathering means—

- (a) a gathering described in Schedule 1; or
- (b) a gathering occurring as part of a defined public activity;

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;
- (c) saunas and bathhouses (including thermal or spa bathing);

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;

prescribed gathering means a gathering (other than a permitted gathering) of more than 1 000 people at any place (other than residential premises or holiday accommodation);

private function means—

- (a) an invitation-only event or function (which may include a function associated with a wedding or a funeral); and
- (b) with a maximum of the same 150 attendees (including children and infants) for the duration of the event; and
- (c) takes place at a relevant licensed premises in a separate and designated area (whether indoor or outdoor) of the premises with separate bathroom facilities (where available) and no public access;

excluding any event or function which is conducted and promoted for commercial gain;

private place means any place that is not a public place or residential premises;

prohibited gathering means—

- (a) in relation to residential premises – a gathering (other than a permitted gathering) of more than 50 people; or
- (b) in relation to a private place (whether indoor or outdoor) other than residential premises or holiday accommodation – a gathering (other than a permitted gathering) of more than 150 people; or
- (c) in relation to holiday accommodation, other than a caravan park or camping ground, a gathering (other than a permitted gathering) of people of more than the total of the maximum number of patrons ordinarily permitted to sleep at the accommodation per night under the usual terms set by the provider of the accommodation, plus 6; or

Example—

If a short term holiday rental ordinarily has a maximum occupancy of 10 patrons staying overnight, 16 is the maximum number of persons who can gather at that place at any time.

- (d) in relation to holiday accommodation that is a caravan park or camping ground, a gathering (other than a permitted gathering) of more than 6 patrons, plus 6 other people (not including children under the age of 16 years) at a single caravan or camping site;

public entertainment means—

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

- (c) galleries, museums 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;

public place means a place to which the public has access (whether an admission fee is charged or not);

recreational transport means a defined public activity in a vehicle or other movable place available for hire by members of the public for the purposes of tours or other recreational purposes;

relevant licensed premises means licensed premises (other than a nightclub) under the *Liquor Licensing Act 1997*—

- (a) at which more than 1 000 persons are reasonably expected to be present; or
- (b) at which dancing and any consumption of liquor is facilitated; or
- (c) where any part of the premises is used for the purpose of the consumption of liquor, playing loud, amplified music and dancing (in the manner of a nightclub); or
- (d) where entertainment of a sexually explicit nature (being entertainment within the meaning of paragraph (a) of the definition of **prescribed entertainment** in section 105(6) of the *Liquor Licensing Act 1997*) may be provided under a condition of the relevant licence;

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

- (2) An area or place will be taken to be a **room** or an **enclosed area** for the purposes of the density requirement 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) For the purposes of this direction, dancing and any consumption of liquor will be taken to be **facilitated** at licensed premises if the licensee does not take all reasonable steps to prevent dancing and any consumption of liquor at the premises.

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—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) A person must not—
 - (a) allow a prescribed gathering to occur at a place occupied by the person; or
 - (b) organise a prescribed gathering at a place; or
 - (c) attend a prescribed gathering at a place,

unless the approving authority has approved a COVID Management Plan in respect of the prescribed gathering.

- (3) 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.

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.

8—Density requirement

- (1) Subject to this clause, 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) 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.

- (4) To avoid doubt, infants and children of any age are to be counted for the purposes of this clause.
- (5) A person who provides recreational transport in a vehicle or other movable place is not required to ensure that the density requirement is complied with in relation to that place.

9—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 or prescribed 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.

10—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.

Note—

These records may be kept electronically.

- (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*.

11—COVID Management Plan

- (1) If a provision of this direction requires the approval of a COVID Management Plan in respect of a defined public activity, meeting or prescribed gathering the person conducting, or who organised, the activity, meeting or prescribed gathering (as the case requires) must submit a COVID Management Plan to the approving authority (in such manner and form as is determined by the approving authority) in relation to the defined public activity, meeting or prescribed gathering.
- (2) If a place is used for defined public activities, meetings or prescribed gatherings conducted by different people, the owner of the place, or the person with care, control and management of the place, must submit a COVID Management Plan to the approving authority (in such manner and form as is determined by the approving authority) in relation to the place.
- (3) The approving authority may approve a COVID Management Plan submitted under this clause.
- (4) A COVID Management Plan approved under this clause may be published by the approving authority.
- (5) A COVID Management Plan approved 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, meeting or prescribed gathering (as the case may be), during any period during which it is occurring; or
 - (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, meetings or prescribed gatherings conducted at the place, during any period during which a defined public activity, meeting or prescribed gathering is occurring at the place.
- (6) In this clause—

authorised officer has the same meaning as in clause 10.

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.

12—Defined public activities permitted if certain requirements complied with

- (1) The following defined public activities are permitted if the person who provides or conducts the activity complies with clause 13:
 - (a) personal care services;
 - (b) auctions and inspections of premises for the purpose of sale or rental;
 - (c) provision of recreational transport;
 - (d) driver instruction.
- (2) The following defined public activities are permitted if the person who provides or conducts the activity complies with clause 14 (if relevant):
 - (a) outdoor sport (including sports training) activities, fitness or recreation activities;
 - (b) indoor sport (including sports training) activities and indoor fitness or recreation activities;
 - (c) swimming or other activities at swimming pools used by the public;
 - (d) public entertainment;
 - (e) the operation of a nightclub;
 - (f) the operation of relevant licensed premises.
- (3) The following defined public activities are permitted if the person who provides or conducts the activity complies with clause 13 and clause 14 (if relevant):
 - (a) indoor fitness classes;
 - (b) indoor public meetings;
 - (c) ceremonies (other than wedding ceremonies or funeral services);
 - (d) the operation of a casino or gaming area (within the meaning of the *Gaming Machines Act 1992*).
- (4) Onsite purchase and consumption of food or beverages is permitted at a place if—
 - (a) subject to subclause (5) and (6), food and beverages (including alcohol) are only consumed by patrons while seated, and if seated at a table or a bar, there is no food preparation conducted at or adjacent to that area; and
 - (b) there are no communal food or beverage service areas (such as buffets, salad bars or communal water/beverage dispensers); and

- (c) re-usable equipment such as 'hookah' or other pipes, tubes, heads or any other equipment associated with the operation of shisha, smoking or vaping at the place, including where any such equipment is supplied for use away from the place (for example, equipment that is hired or lent out), is not permitted to be used.
- (5) If the primary purpose of the place is to provide recreational facilities (eg mini-golf, pool tables, tenpin bowling), food and beverages may be consumed by patrons while using those facilities provided that—
- (a) the consumption of food and beverages occurs in an area where there is no food preparation conducted at or adjacent to that area; and
 - (b) patrons remain generally in the vicinity in which they or their group (as the case may be) are using the recreational facilities; and
 - (c) shared equipment (such as golf clubs, pool cues or bowling balls) and frequently touched surfaces are cleaned between use by different individuals or groups (as the case may be).
- (6) Food and beverages (including alcohol) may be consumed by patrons while standing at a relevant licensed premises provided that—
- (a) the consumption occurs by patrons who are attending as invitees at a private function; and
- Example—**
A wedding reception held at a function room in a hotel.
- (b) the patrons attending as invitees to the private function use their best endeavours to remain segregated from other general patrons of the premises; and
 - (c) the person who provides or conducts the private function complies with clause 13; or
 - (d) the consumption occurs by patrons in an outdoor space at that premises.
- (7) Despite a preceding provision, the following defined public activities are permitted if the total number of persons attending does not exceed 150 people and the person who provides or conducts the activity complies with clause 13:
- (a) weddings (including any ceremony and reception associated with a wedding);
 - (b) funeral services (including wakes).
- Note—**
The cap of 150 persons applies regardless of the venue (such as a hotel or other entertainment premises) at which a wedding or funeral service is held
- (8) In addition, a ceremony, wedding ceremony, wedding reception or funeral service, wake or private function that involves the service of any food or beverages or provision of a liquid or edible items must ensure that no shared utensils are used for that purpose.
- (9) For the avoidance of doubt, attendees at a private function are permitted to dance at the function.

- (10) 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.

13—Contact tracing records

- (1) A person who provides or conducts a defined public activity referred to in clause 12(1), 12(3) or 12(6)(a) must make and retain contact tracing records for persons attending the activity or in relation to whom the activity is provided or conducted.
- (2) To avoid doubt, a person who provides a defined public activity in a vehicle or other movable place must make and retain contact tracing records for people attending the activity.

14—COVID Management Plans required for certain defined public activities

An approved COVID Management Plan (under clause 11) is required in respect of each of the following:

- (a) a defined public activity referred to in clause 12(2) or (3) if more than 1 000 persons are reasonably expected to be present at or participating in the activity;
- (b) the onsite purchase and consumption of food or beverages at a place where the total number of persons present at the place for the purpose of the purchase and consumption of food or beverages is reasonably expected to exceed 1 000 people;
- (c) the operation of a nightclub;
- (d) the operation of relevant licensed premises.

Part 5—Special compliance rules for prescribed operations

Note—

Any applicable requirements of this Part apply in addition to the general compliance principles under Part 3 and special compliance rules under Part 4.

15—COVID Marshal

- (1) A person conducting prescribed operations must ensure that the prescribed operations are supervised by a COVID Marshal in accordance with this clause.
- (2) If a place is used for prescribed operations conducted by different people, the owner of the place, or the person with care, control and management of the place, must ensure that the prescribed operations at the place are supervised by a COVID Marshal in accordance with this clause.
- (3) A person is not eligible to be a COVID Marshal unless-

- (a) the person has completed training of a kind determined by the Department; and
 - (b) the person is 18 years of age or more.
- (4) A person required under this clause to ensure that prescribed operations are supervised by a COVID Marshal must—
- (a) keep records of completion of COVID-19 training by persons referred to in subclause (3); and
 - (b) provide such records to an authorised officer on request.
- (5) The functions and duties of a COVID Marshal with respect to the supervision of prescribed operations include—
- (a) to promote, and take such practical steps as necessary to ensure the observance of, appropriate infection control practices (for example, frequent handwashing) by all persons participating in the operations (whether as patrons, employees or contractors);
 - (b) to promote, and take such practical steps as necessary to ensure persons participating in the operations are behaving in compliance with the density requirement and physical distancing principle, and any other applicable obligations pursuant to a direction issued under the Act;
 - (c) to ensure that plans (including COVID Safe Plans and COVID Management Plans (as relevant)) or specific policies or protocols related to the prevention of coronavirus infection are effectively implemented and monitored;
 - (d) to ensure that the environment is appropriately established and there are sufficient seating, hand washing facilities and cleaning regimes in place to enable compliance;
 - (e) to take reasonable steps to visually identify him or herself as a COVID Marshal to the public and any authorised officer.

Note—

For example, this could be achieved by wearing particular clothing such as a uniform.

- (6) A person undertaking the role of COVID Marshal is required to be present supervising prescribed operations at a place at all times.

Note—

With respect to 24 hour sites where staff are not always present, at all times of high patronage.

- (7) If more than 200 persons are reasonably expected to be present at or participating in prescribed operations, a COVID Marshal supervising the prescribed operations must not have any other duties in respect of the prescribed operations.

Note—

Nothing in this Part prevents the appointment of more than one COVID Marshal.

(8) This clause applies from 21 August 2020.

(9) In this clause—

Prescribed operations means any of the following:

- (a) onsite purchase and consumption of food or beverages (whether occurring in an indoor or outdoor area);
- (b) ceremonies;
- (c) private functions;
- (d) operations at –
 - (i) supermarkets;
 - (ii) hardware stores;
 - (iii) distribution centres, including associated transport operations;
 - (iv) gymnasiums and fitness centres;
 - (v) swimming pools used by the public;
 - (vi) sporting clubs;
- (e) any defined public activity in respect of which a COVID Management Plan is required under this direction; and
- (f) any operations specified as prescribed operations for the purposes of this definition by the State Co-ordinator.

Schedule 1—Exclusions from prohibited gatherings and prescribed gatherings definitions

- (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), or in a vehicle used for the purposes of such a 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 or Government House 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 7.

- (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 or other educational institution or a childcare facility, or in a vehicle used for the purposes of any such institution or facility, that is necessary for the normal business of the institution or facility;
- (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.

This direction operates from the 3rd day of October 2020 at 0001 hours

SIGNED at ADELAIDE on this 2nd day of October 2020
at 1840 hours


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GRANTLEY STEVENS
STATE CO-ORDINATOR

