

Australian Capital Territory

Public Health (Residential Aged Care Facilities) Emergency Direction 2020 (No 2)

Notifiable Instrument NI2020–281

made under the

Public Health Act 1997, s 120 (Emergency actions and directions)

1. Name of instrument

This instrument is the *Public Health (Residential Aged Care Facilities) Emergency Direction 2020 (No 2)*.

2. Commencement

This instrument commences at 6.00pm on 14 May 2020.

3. Public Health Emergency Direction

I, Dr Kerryn Coleman, Chief Health Officer, consider it necessary or desirable to alleviate the emergency declared under the *Public Health (Emergency) Declaration 2020 (No 1)* [NI2020-153] (the *declared emergency*) on 16 March 2020, to give the directions as set out in the schedule.

4. Duration

This direction is in force for the period ending on the day the declared emergency (as extended or further extended) ends, unless it is earlier revoked.

5. Revocation

This direction revokes, replaces and extends the Public Health (Residential Aged Care Facilities) Emergency Direction 2020 [NI2020-168].

Dr Kerryn Coleman
Chief Health Officer

14 May 2020

Public Health Emergency Direction

Public Health Act 1997

*Made under the Public Health Act 1997,
section 120 (Emergency actions and directions)*

I, Dr Kerryn Coleman, Chief Health Officer, consider it necessary or desirable to alleviate the emergency declared under the *Public Health (Emergency) Declaration 2020 (No 1)* [NI2020-153] (the **declared emergency**) on 16 March 2020, to give the following directions.

PART 1 — RESTRICTED ACCESS TO RESIDENTIAL AGED CARE FACILITIES

The purpose of these directions is to make provision for restricted access to residential aged care facilities in order to limit the spread of Novel Coronavirus 2019 (2019-nCoV) within a particularly vulnerable population.

Directions

1. From 6.00pm on 14 May 2020 until the conclusion of the declared public health emergency (or unless earlier revoked) a person must not enter, or remain on, the premises of a **residential aged care facility** in the Australian Capital Territory unless:
 - a. the person is an employee or contractor of the residential aged care facility; or
 - b. the person's presence at the premises is for the purposes of providing goods or services that are necessary for the effective operation of the residential aged care facility, whether the goods or services are provided for consideration or on a voluntary basis; or
 - c. the person's presence at the premises is for the purposes of providing health, medical or pharmaceutical goods or services to a resident of the residential aged care facility, whether the goods or services are provided for consideration or on a voluntary basis; or
 - d. the person's presence at the premises is for the purposes of a **care and support visit** to a resident of the residential aged care facility on a particular day, and is the only care and support visit made to the resident on that day; or
 - e. the person's presence at the premises is for the purposes of end of life support for a resident of the residential aged care facility; or
 - f. the person's presence at the premises is required for the purposes of emergency management or law enforcement; or
 - g. the person's presence at the premises is in the person's capacity as a prospective resident of the residential aged care facility.



2. Despite paragraph 1, while this Public Health Emergency Direction is in effect a person referred to in paragraph 1 (a), (b), (c), (d), (e), (f) or (g) must not enter or remain on the premises of a residential aged care facility in the Australian Capital Territory if:
 - a. during the 14 days immediately preceding the entry, the person arrived in Australia from a place outside Australia; or
 - b. during the 14 days immediately preceding the entry, the person had known contact with a person who has a confirmed case of COVID-19; or
 - c. the person has a temperature higher than 37.5 degrees or symptoms of acute respiratory infection; or
 - d. the person is aged under 16 years, other than in circumstances where the person's presence at the premises is for the purposes of end of life support for a resident of the residential aged care facility.

3. Despite paragraph 1, while this Public Health Emergency Direction is in effect a person referred to in paragraph 1 (a), (b), (c), must not enter or remain on the premises of a residential aged care facility in the Australian Capital Territory if the person does not have an up to date vaccination against influenza, unless:
 - a. such a vaccination is not available to the person due to supply restrictions; or
 - b. such a vaccination is not available to the person due to a documented **medical contraindication** to the influenza vaccine.

4. Despite paragraph 1, while this Public Health Emergency Direction is in effect a person referred to in paragraph 1 (d), (e), or (g) must not enter or remain on the premises of a residential aged care facility in the Australian Capital Territory if the person does not have an up to date vaccination against influenza, unless such a vaccination is not available to the person due to a documented **medical contraindication** to the influenza vaccine.

5. The **operator** of a residential aged care facility in the Australian Capital Territory must take all reasonable steps to ensure that a person does not enter or remain on the premises of the residential aged care facility if the person is prohibited from doing so under paragraph 1 or 2.

6. Nothing in paragraph 1, 2 or 3 is to be taken to prevent a resident of a residential aged care facility from entering or remaining upon the premises of the residential aged care facility.

Definitions

For the purposes of these directions:

7. **Care and support visit**, in relation to a resident of a residential aged care facility, means a visit of no longer than 2 hours made to the resident by one person, or two persons together, for the purposes of providing care and support to the resident;
8. **Flexible care subsidy** has the same meaning as in the *Aged Care Act 1997* of the Commonwealth.

9. **Medical contraindication** for the influenza vaccine has the same meaning as in the Australian Immunisation Handbook, Australian Government Department of Health, Canberra, 2018, <https://immunisationhandbook.health.gov.au/>
10. **Operator** of a residential aged care facility means a person who owns, controls or operates the residential aged care facility.
11. **Residential aged care facility** means a facility at which accommodation, and personal care or nursing care or both, are provided to a person in respect of whom a residential care subsidy or a flexible care subsidy is payable under the *Aged Care Act 1997* of the Commonwealth.
12. **Residential care subsidy** has the same meaning as in the *Aged Care Act 1997* of the Commonwealth.

PENALTIES

Section 120 (4) of the *Public Health Act 1997* provides:

A person must not, without reasonable excuse, fail to comply with a direction under this section.

Maximum Penalty:

In the case of a natural person, \$8,000 (50 penalty units).

In the case of a body corporate, \$40,500 (50 penalty units).

In the case of a utility that is a body corporate, \$1,620,000 (2000 penalty units).

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Dr Kerryn Coleman

Chief Health Officer

May 2020

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