

Australian Capital Territory

# Public Health (Closure of Non-Essential Business or Undertaking) Emergency Direction 2020 (No 7)

Notifiable Instrument NI2020–286

made under the

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

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## 1. Name of instrument

This instrument is the *Public Health (Closure of Non-Essential Business or Undertaking) Emergency Direction 2020 (No 7)*.

## 2. Commencement

This instrument commences and is taken to commence at 11.59pm on 15 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 below.

## 4. Duration

This direction is in force until 11:59pm on 6 July 2020, unless it is earlier revoked.

## 5. Revocation

This direction revokes and replaces the *Public Health (Closure of Non-Essential Business or Undertaking) Emergency Direction 2020 (No 6)* [NI2020-267].

Dr Kerryn Coleman  
Chief Health Officer

15 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 directions as set out below.

## PART 1 — CLOSURE OF NON-ESSENTIAL BUSINESS OR UNDERTAKING

The purpose of this direction is to prohibit the operation of non-essential businesses and undertakings in order to limit the spread of coronavirus disease 2019 (**COVID-19**), caused by the novel coronavirus SARS-CoV-2.

### *Directions*

#### **A. Non-Essential Business or Undertaking**

1. From 11.59pm on 15 May 2020 until 11:59pm on 9 July 2020, a **person** who owns, controls or operates a **non-essential business or undertaking** in the Australian Capital Territory must not operate that business or undertaking.
2. Direction A1 does not operate to prohibit persons who own, control or operate a **non-essential business or undertaking** from entering those **premises** provided that no more than 10 people enter the premises and social distancing of 1 person per 4 square metres is observed.
3. Direction A1 does not operate to prohibit the operation of a **non-essential business or undertaking** to the extent that the non-essential business or undertaking operates solely on an online or virtual basis (for example, a streaming service), or through delivery, take-away or pickup services.

*Example: A nail salon, day spa, or a place providing beauty therapy or massages can sell gift vouchers or products either online or physically, provided that social distancing of 1 person per 4 square metres is observed.*

## B. Enforcement

4. If a person fails to comply with this direction, an **authorised person** may then direct the person to do such things as are reasonably necessary to comply with this direction including, upon request, to produce proof of identification to the **authorised person**.
5. If a person fails to comply with any direction given under paragraph 4, then the **authorised person** may take all reasonable steps to enforce compliance with this direction.

## C. Guidance

6. Risk mitigation guidance is provided at **Attachment A** to this Direction. This guidance relates to all businesses and undertakings, whether included or excluded from the definition of **non-essential business or undertaking**.

## Definitions

For the purposes of these directions:

7. A **non-essential business or undertaking** means any of the following, whether operated on a for-profit or not-for-profit basis or purely as a private social gathering:
  - a. a business that supplies liquor for consumption **ON** the premises, but not including any part of the business:
    - i. that sells liquor for consumption **OFF** the premises as defined by the *Liquor Act 2010*; or
    - ii. that operates as a restaurant or café (including in a hotel), to the extent that it involves gatherings of no more than 10 persons and where social distancing of 1 person per 4 square metres is observed.
  - b. a hotel, whether licensed or unlicensed, but not:
    - i. to the extent that it provides accommodation, takeaway meals or a meal delivery service; or  
any part of the hotel constituted by a bottleshop;
  - c. a gym;
  - d. an indoor sporting centre;
  - e. a health club or fitness centre;
  - f. a centre that provides yoga, barre or spin facilities;
  - g. a sauna, bathhouse or wellness centre;
  - h. a boot camp or personal trainer, but not:
    - i. to the extent that it involves outdoor activities for groups of no more than 10 people (excluding the trainer) and where social distancing of 1 person per 4 square metres is observed.



- i. an organised **social sport**, but not:
  - i. to the extent that it involves outdoor activities for groups of no more than 10 people and where social distancing of 1 person per 4 square metres is observed;
- j. a swimming pool, but not to the extent that it is used:
  - i. as a **hydrotherapy pool** for therapeutic purposes by persons receiving the therapy and no more than 1 parent, guardian or carer per person receiving the therapy (who may be in the pool with the person receiving the therapy if required), and otherwise where social distancing of 1 person per 4 square metres is observed; or
  - ii. by groups of no more than 10 swimmers and no more than 1 parent, guardian or carer per swimmer, where social distancing of 1 person per 4 square metres is observed;
- k. a gallery, museum, national institution or historic site;
- l. a library, but not:
  - i. where social distancing of 1 person per 4 square metres can be observed; and
  - ii. a gathering for any particular organised activity at the premises does not exceed more than 10 people.

*Example: A book-reading of up to 10 people can occur in addition to other library users, provided the premises are sufficiently large to enable social distancing.*
- m. a gaming or gambling venue;
- n. a **casino**;
- o. a cinema, nightclub or entertainment venue of any kind;
- p. a restaurant or café, other than to the extent that it provides takeaway meals or a meal delivery service, but not:
  - i. a café or canteen at a hospital;
  - ii. a café or canteen at a residential aged care facility;
  - iii. a café or canteen at a school;
  - iv. a café or canteen at a correctional centre;
  - v. a military café or canteen;
  - vi. a café or canteen that provides food or drink to the homeless; or
  - vii. to the extent that it involves no more than 10 customers seated in the combined **indoor space** and **outdoor space** and where social distancing of 1 person per 4 square metres is observed.



- q. a community centre or facility or a youth centre or facility, but not:
  - i. to the extent that the centre or facility hosts essential voluntary or public services, such as food banks or services for the homeless;
  - ii. to the extent that the centre or facility hosts essential services for vulnerable children and families, or for young people at risk of homelessness or engagement with the youth justice system; or
  - iii. to the extent that it permits gatherings of no more than 10 people (other than for the purposes of an indoor **social sport**) and where social distancing of 1 person per 4 square metres is observed.
- r. a hairdresser or barber, but not to the extent:
  - i. that social distancing of 1 person per 4 square metres is observed; and
  - ii. it asks for a first name and contact phone number (for contact tracing purposes) and, if provided, keeps a record of those details and the date and time at which the person attended.
- s. a nail salon;
- t. a tattoo and body modification parlour;
- u. a place that provides beauty therapy, tanning or waxing services, but not:
  - i. cosmetic services provided by a health practitioner registered by the Australian Health Practitioner Regulation Agency;
- v. a spa or massage parlour, but not:
  - i. massage services provided by or for allied health services, such as remedial, sports, and lymphatic massage;
- w. a strip club, brothel or an escort agency;
- x. a concert venue, theatre, arena, auditorium or stadium, but not:
  - i. to the extent that it provides live streaming of a performance by a group of persons sufficiently small to enable social distancing of 1 person per 4 square metres to be observed;
- y. an amusement park or arcade;
- z. an outdoor or indoor play centre;
- aa. a food court, but not:
  - i. to the extent that it provides takeaway meals or a meal delivery service;
- bb. an auction house but not to the extent:
  - i. that it involves gatherings of no more than 10 people and where social distancing of 1 person per 4 square metres is observed; and
  - ii. it asks for a first name and contact phone number (for contact tracing purposes) and, if provided, keeps a record of those details and the date and time at which the person attended.



- cc. a real estate auction, display home or an open house inspection, but not to the extent that:
- i. it involves gatherings of no more than 10 people (excluding necessary real estate personnel) and where social distancing of 1 person per 4 square metres is observed; and
  - ii. it asks for a first name and contact phone number (for contact tracing purposes) and, if provided, keeps a record of those details and the date and time at which the person attended.
- dd. a **place of worship**, other than for the purposes of a **wedding, funeral** or **religious ceremony**, but not:
- i. to the extent that a service is being recorded or streamed, providing that the minimum number of essential participants are present, the venue remains closed to the public, and social distancing of 1 person per 4 square metres is observed.
8. The Chief Health Officer may, in writing, relax the application of paragraphs 7(dd) and 15 in respect of a funeral.
9. An **authorised person** means an authorised person under section 121 of the *Public Health Act 1997*.
10. **Casino** has the same meaning as in the *Casino Control Act 2006*.
11. **Hydrotherapy pool** means a heated swimming pool (heated to 33 to 36 degrees Celsius) for use by persons receiving hydrotherapy, who use the pool to undergo that therapy either on their own or with assistance from another person.
12. **Premises** has the same extended meaning as in the *Public Health Act 1997*, but does not include a private residence.
13. **Place of worship** means a building or place used for the purpose of religious worship by a congregation or religious group, whether or not the building or place is also used for counselling, social events, instruction or religious training.
14. **Wedding** means a wedding attended by no more than 10 people (excluding the celebrant and professional wedding photographer) and where social distancing of 1 person per 4 square metres is observed.
15. **Funeral** means:
- a. in an **outdoor space**, a funeral attended by no more than 30 mourners and where social distancing of 1 person per 4 square metres is observed; or
  - b. in an **indoor space**, a funeral attended by no more than 20 mourners and where social distancing of 1 person per 4 square metres is observed.



16. **Religious ceremony** means a religious ceremony attended by no more than 10 people (excluding the person conducting the ceremony) and where social distancing of 1 person per 4 square metres is observed.
17. An **outdoor space** means a space that is not an indoor space or a part of residential premises.
18. An **indoor space** means an area, room or premises that is, or are, substantially enclosed by a roof and walls, regardless of whether the roof or walls or any part of them are:
  - a. permanent or temporary; or
  - b. open or closed.
19. **Social sport** means any organised sporting activity (be it through peak sporting organisations, community clubs, commercial providers or individual activities) including dance activities but does not include professional sport.

**Note:**

1. All businesses or undertakings that continue to operate must comply with the *Public Health (Non-Essential Gatherings) Emergency Direction 2020 (No 3)* [NI2020-268].
2. Pursuant to section 119(4B) of the *Public Health Act 1997* the chief health officer is to advise the Minister every 30 days about the status of the emergency and whether the chief health officer considers the declared emergency is still justified.

**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 Kerry Coleman**

Chief Health Officer

15 May 2020

## ATTACHMENT A

### *Risk Mitigation Guidance*

It is suggested that, as far as practicable, the following risk mitigation measures be applied to gatherings of 2 people or more:

- In a given occupied space, there be a density of no more than one person per four square metres of floor space;
- Wherever possible, people should stay 1.5 metres apart from each other;
- Hand hygiene products and suitable waste receptacles should be available, to allow for frequent cleaning and waste disposal;
- The recommendations for unwell individuals to isolate at home and not attend published by the Commonwealth Department of Health should be promoted and displayed prominently so that they can be seen and read easily by a person at or near an entrance to the indoor area;
- For settings where there is ongoing movement and an increased number of interactions between people (for example food markets) and an individual's attendance is not in the course of their employment at the place, an individual's attendance should be less than two hours duration; and
- Wherever possible, physical contact should be avoided.
- Where activities involve the use of equipment, that equipment should be regularly cleaned and, where practicable, not be shared by persons other than members of the same household.

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