

Australian Capital Territory

# Public Health (Residential Aged Care Facilities) Emergency Direction 2020 (No 3)

Notifiable Instrument NI2020–363

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 (Residential Aged Care Facilities) Emergency Direction 2020 (No 3)*.

## 2. Commencement

This instrument commences at 11.59pm on 26 June 2020.

## 3. Public Health Emergency Direction

I, Dr Vanessa Johnston, Acting 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 instrument revokes, replaces and extends the *Public Health (Residential Aged Care Facilities) Emergency Direction 2020 (No 2)* [NI2020-281].

Dr Vanessa Johnston  
Acting Chief Health Officer

26 June 2020

# Public Health Emergency Direction

## *Public Health Act 1997*

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

I, Dr Vanessa Johnston, Acting 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 COVID-19 within a particularly vulnerable population.

### **Directions**

1. From 11.59pm on 26 June 2020, 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 a resident of the **residential aged care facility**; or
  - b. the person is an employee or contractor of the **residential aged care facility**; or
  - c. 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
  - d. 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
  - e. 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; or
  - f. 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
  - g. the person's presence at the premises is required for the purposes of emergency management or law enforcement; or
  - h. 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 Direction is in effect a person referred to in paragraph 1 (b), (c), (d), (e), (f),(g) or (h) 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 any symptoms that are associated with COVID-19, a temperature higher than 37.5 degrees, or symptoms of acute respiratory infection.
  
3. Despite paragraph 1, while this Direction is in effect a person referred to in paragraph 1 (b), (c), (d), (e), (f) or (h) 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. the person being a child under 6 months of age; or
  - b. a documented medical contraindication to the influenza vaccine.

*Note: For what a medical contraindication for the influenza is, see the Australian Immunisation Handbook, Australian Government Department of Health, Canberra, 2018, <https://immunisationhandbook.health.gov.au/>*
  
4. 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.

### **Definitions**

For the purposes of this Direction:

5. **Care and support visit**, in relation to a resident of a **residential aged care facility**, means a visit by a maximum of two of the following people at the same time:
  - a. a spouse, close relative or other people providing care and support;
  - b. a service provider, for no longer than 2 hours, for the purposes of providing services, where those services cannot be provided on an online, telehealth or virtual basis.

#### *Examples:*

- *A legal practitioner and the resident's spouse visiting for the purpose of executing a will by a client who is a resident of the **residential aged care facility**.*
- *A hairdresser visiting for the purposes of providing haircuts to residents of the **residential aged care facility**.*

6. **Operator**, of a **residential aged care facility**, means a person who owns, controls or operates the **residential aged care facility**.
7. **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* (Cwlth).
8. **Residential care subsidy** has the same meaning as in the *Aged Care Act 1997* (Cwlth).

## 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 Vanessa Johnston**

Acting Chief Health Officer

26 June 2020

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