

Australian Capital Territory

Public Health (COVID-19 Affected Areas) Emergency Direction 2021 (No 12)

Notifiable Instrument NI2021-652

made under the

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

1. Name of instrument

This instrument is the *Public Health (COVID-19 Affected Areas) Emergency Direction 2021 (No 12)*.

2. Commencement

This instrument commences at 2:00pm on 3 November 2021.

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 the *Public Health (COVID-19 Affected Areas) Emergency Direction 2021 (No 11)* [NI2021-642].

Dr Kerryn Coleman
Chief Health Officer

3 November 2021

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 declared emergency to give the directions as set out below.

Grounds for directions

I consider the directions are necessary or desirable to alleviate the **COVID-19** emergency on the grounds that—

- (a) **COVID-19** poses a serious public health risk to the Australian Capital Territory community;
- (b) the Australian Capital Territory has experienced persistent community transmission since the outbreak of the Delta variant of **COVID-19**, in the Australian Capital Territory on 12 August 2021;
- (c) Other Australian States and Territories are continuing to experience persistent community transmission of the Delta variant of **COVID-19**, also posing a significant risk for the Australian Capital Territory in view of travel across the jurisdictions.
- (d) the Delta variant of **COVID-19** (labelled as a variant of concern) has proven challenging both nationally and internationally, demonstrating that elimination of the virus is not feasible and community transmission will continue as the Australian Capital Territory seeks to mitigate the impact of this public health risk;
- (e) it is important to limit the spread of **COVID-19** in the Australian Capital Territory community.

In making this Direction, I have had regard to relevant human rights and I am satisfied that the limitations imposed as a result of this Direction are both demonstrably justifiable in a free and democratic society.

PART 1 – COVID-19 AREAS OF CONCERN NOTICE

1. The Chief Health Officer may, by written notice in a **COVID-19 areas of concern notice** published on an ACT government website, identify an area or place as a:
 - a. **COVID-19 affected area**;
 - b. **COVID-19 place of concern**;
 - c. **Close contact exposure location**;
 - d. **Casual contact exposure location**.

Note: <https://www.covid19.act.gov.au/updates/covid-19-affected-areas>

2. A **COVID-19 areas of concern notice** may state:
 - a. a time at which an area or place becomes a **COVID-19 affected area**, a **COVID-19 place of concern**, a **Close contact exposure location** or a **Casual contact exposure location**; and
 - b. the period during which an area or place is a **COVID-19 affected area**, a **COVID-19 place of concern**, a **Close contact exposure location** or a **Casual contact exposure location**;
3. A time or period stated for an area or place in a **COVID-19 areas of concern notice** may be before the commencement of the notice.
4. An **affected person** must comply with any conditions in a **COVID-19 areas of concern notice** that applies to the **COVID-19 affected area**, a **COVID-19 place of concern**, a **Close contact exposure location** or a **Casual contact exposure location** that the applies to the affected person.

PART 2 – AFFECTED PERSON—RESIDENT OF THE AUSTRALIAN CAPITAL TERRITORY

5. This part applies to an **affected person** who is **resident of the Australian Capital Territory**.
6. If the person is located outside the Australian Capital Territory, they must on each occasion the person intends to travel to the Australian Capital Territory, declare their intention to travel by completing an **exemption form** within 72 hours before their intended arrival in the Australian Capital Territory.

Note: Residents of the ACT will be granted an automatic exemption once residency is confirmed.
7. If the person arrives in the Australian Capital Territory without having completed an **exemption form**, they must:
 - a. complete an **exemption form** on arrival; and
 - b. comply with any direction given by an **authorised person**.
8. If the person is a child, a requirement to complete an **exemption form** under this Part must be completed by the child's parent, guardian, person with **parental responsibility** or **carer**.
9. A person who has been granted an exemption to enter the Australian Capital Territory must comply with the conditions of their exemption while in the Australian Capital Territory.
10. If a person mentioned in paragraph 6 is an **unaccompanied child**, the parent, guardian, person with **parental responsibility** or **carer** of the child in the Australian Capital Territory must comply with the conditions of the child's exemption while the child is in the Australian Capital Territory.
11. If the person is required to obtain an exemption, approval or other permission (an authorisation) to leave a State or Territory where the person is located, the person must, before arriving in the Australian Capital Territory:
 - a. obtain the authorisation; and
 - b. provide evidence to ACT Health through the **exemption form** of the authorisation.



12. If the person is an **affected person** and is located in the Australian Capital Territory, the person must complete a **self-declaration form** if required by the **COVID-19 areas of concern notice**.
13. If the **affected person** is a child, a requirement to complete a **self-declaration form** under paragraph 12 must be completed by the child's parent, guardian, person with **parental responsibility** or **carer**.

PART 3 – AFFECTED PERSON—NON-RESIDENT OF AUSTRALIAN CAPITAL TERRITORY

14. This part applies to **affected person** who is not a **resident of the Australian Capital Territory**.
15. If the person is located outside the Australian Capital Territory, the person must, on each occasion they intend to travel to the Australian Capital Territory, declare their intention to travel by completing an **exemption form** within 72 hours before their intended arrival in the Australian Capital Territory.
16. The person must not enter the Australian Capital Territory unless they obtain an exemption before arriving.
17. If the person is a child, a requirement to obtain an exemption under paragraph 15 must be completed by the child's parent, guardian, person with **parental responsibility** or **carer**.
18. A person who has been granted an exemption to enter the Australian Capital Territory must comply with the conditions of their exemption while in the Australian Capital Territory.
19. If a person mentioned in paragraph 18 is an **unaccompanied child**, the parent, guardian, person with **parental responsibility** or **carer** of the child in the Australian Capital Territory must comply with the conditions of the child's exemption while the child is in the Australian Capital Territory.
20. If the person is required to obtain an exemption, approval or other permission (an **authorisation**) to leave a State or Territory where the person is located, the **affected person** must, before arriving in the Australian Capital Territory:
 - a. obtain the authorisation; and
 - b. provide evidence to ACT Health through the **exemption form** of the authorisation.
21. If the **affected person** is not a **resident of the Australian Capital Territory** but is located in the Australian Capital Territory, the person must complete a **self-declaration form** if required by **COVID-19 areas of concern notice**.
22. If the **affected person** is a child, a requirement to complete a **self-declaration form** under paragraph 12 must be completed by the child's parent, guardian, person with **parental responsibility** or **carer**.

PART 4 — QUARANTINE – VACCINATED CLOSE CONTACT

23. This part applies to a **close contact** who is **fully vaccinated**.
24. The person must:
- if the person is at **designated premises** when they become aware they have been in a **close contact exposure location** - undertake a **period of quarantine** at the premises; and
 - if the person is not at **designated premises** when they become aware they have been in a **close contact exposure location** - travel directly to **designated premises** to undertake a **period of quarantine**; and
 - communicate to any person with whom they may come into contact that they are undertaking a **period of quarantine** due to being in a **Close contact exposure location**; and
 - not leave the **designated premises** during the **period of quarantine** other than to undertake a **test for COVID-19**, or in an emergency; and
Example: An emergency may include needing to obtain urgent medical treatment, fleeing a serious risk to life or health, or escaping a risk of harm related to domestic and family violence.
 - not permit any other person that does not reside at the **designated premises** to enter the premises during the **period of quarantine**, unless for medical, law enforcement or emergency purposes.
25. A **period of quarantine**, for a **close contact** who is **fully vaccinated**, means a period that begins on the day the person first becomes aware they were in a **close contact exposure location** and ends on the seventh day after the **close contact** was in that location.
26. At the end of the **period of quarantine** a person must remain in quarantine for an additional period (not longer than the **supplementary quarantine period**) unless:
- The person has been **tested for COVID-19** no earlier than six days after the person was last in the **close contact exposure location** and returns a negative result; or
 - the person is tested for **COVID-19** anytime during the **supplementary quarantine period** and returns a negative result; or
 - the person is given clearance from quarantine by an **authorised person**.

PART 5 — QUARANTINE - UNVACCINATED CLOSE CONTACT

27. This part applies to a **close contact** who is not **fully vaccinated**.
28. The person must:
- if the person is at **designated premises** when they become aware they have been in a **close contact exposure location** - undertake a **period of quarantine** at the premises; and
 - if the person is not at **designated premises** when they become aware they have been in a **close contact exposure location** - travel directly to **designated premises** to undertake a **period of quarantine**; and
 - communicate to any person with whom they may come into contact that they are undertaking a **period of quarantine** due to being in a **close contact exposure location**; and
 - not leave the **designated premises** during their **period of quarantine** other than to undertake a **test for COVID-19**, or in an emergency; and
Example: An emergency may include needing to obtain urgent medical treatment, fleeing a serious risk to life or health, or escaping a risk of harm related to domestic and family violence.
 - not permit any other person that does not reside at the **designated premises** to enter the premises during the **period of quarantine**, unless for medical, law enforcement or emergency purposes.
29. A **period of quarantine**, for a **close contact** who is not **fully vaccinated**, means a period that begins on the day the person becomes aware they were in a **close contact exposure location** and ends on the fourteenth day after the **close contact** was in that location.
30. At the end of the **period of quarantine** a person must remain in quarantine for an additional period (not longer than the **supplementary quarantine period**) unless:
- The person has been **tested for COVID-19** when requested by an **authorised person** and returns a negative test result; or
 - the person is tested for **COVID-19** anytime during the **supplementary quarantine period** and returns a negative result; or
 - the person is given clearance from quarantine by an **authorised person**.

PART 6 – PEOPLE WHO HAVE BEEN IN A COVID-19 PLACE OF CONCERN – CASUAL CONTACT EXPOSURE LOCATION

31. If a person who is not an **affected person** has been in a **casual contact exposure location** identified in the **COVID-19 areas of concern notice** they must comply with any conditions within the **COVID-19 areas of concern notice** that applies to the **casual contact exposure location**.

PART 7 — EXEMPTIONS

32. The Chief Health Officer may, in writing and subject to any conditions that the Chief Health Officer considers necessary, exempt a person from this Direction, or a stated requirement under this Direction, on compassionate or other grounds that the Chief Health Officer considers reasonable and appropriate.
33. If the Chief Health Officer exempts a person from this Direction, or a stated requirement under this Direction that person must comply with the conditions of the exemption.

PART 8 – MATTERS RELEVANT TO THESE DIRECTIONS

Enforcement

34. An **authorised person** may ask a person arriving at or in the Australian Capital Territory for any information necessary to determine whether the person is subject to this Direction.
35. Any person arriving at or in the Australian Capital Territory must comply with any request made under paragraph 33 by an **authorised person**.
36. An **authorised person** may direct a person who is subject to this Direction to do such things as are reasonably necessary to comply with this Direction.

Examples of directions:

An authorised person may direct a person to show the authorised person proof of residence in the Australian Capital Territory.

An authorised person may direct a person to show the authorised person that person's exemption to enter the Australian Capital Territory.

An authorised person may direct a person who does not have an exemption to not enter the Australian Capital Territory.

37. Any person subject to this Direction must comply with any request under paragraph 35 by an **authorised person**.
38. If a person fails to comply with this Direction, an **authorised person** may direct the person to do such things as are reasonably necessary to comply with this Direction including to produce proof of identification to the **authorised person**.
39. If a person fails to comply with any direction given under paragraph 37, the **authorised person** may take all reasonable steps to enforce compliance with the direction.
40. A person must, if requested by an **authorised person**, state if they have been in a **COVID-19 affected area**.

Definitions

For the purposes of this Direction:

41. **Affected person** means a person who has been in a **COVID-19 affected area** or **COVID-19 Place of concern** at any relevant time or during any relevant period stated in the notice (if any), other than a person who:
 - i. transits through a **COVID-19 affected area** by road or rail, including to attend an airport (other than a **COVID-19 affected area** that is within the airport), provided the person does not exit the airport or the motor vehicle or train in which the person is travelling while in the **COVID-19 affected area**; or
 - ii. enters the Australian Capital Territory for urgent medical, law enforcement or emergency purposes; or
 - iii. enters the Australian Capital Territory by road for transport or freight purposes (excluding furniture removalists); or
 - iv. arrives in the Australian Capital Territory by air for the purpose of transiting to another destination, and does not leave the Canberra Airport; or
 - v. arrives in the Australian Capital Territory by road or air for the purpose of transiting to New South Wales by road and immediately does so; or
 - vi. has undergone an unbroken 14-day period of hotel quarantine in Australia following a flight that originated from overseas, and has travelled directly to the Australian Capital Territory immediately upon completion of quarantine.
42. **Authorised person** means an authorised person under section 121 of the *Public Health Act 1997* and includes an authorised medical officer under the *Public Health Act 1997*.
43. **Carer**, for the purposes of this Direction, includes an appropriate adult nominated by a person with **parental responsibility**.
44. **Close contact** means a person who has been in a **Close contact exposure location**.
45. **Casual contact exposure location** means an area or place identified as a casual contact exposure location in a **COVID-19 areas of concern notice**.
46. **Close contact exposure location** means an area or place identified as a close contact exposure location in a **COVID-19 areas of concern notice**.
47. **COVID-19 affected area** means an area or place identified as an affected area in a **COVID-19 areas of concern notice**.
48. **COVID-19 areas of concern notice** means a notice made under paragraph 1.
49. **COVID-19 place of concern** means an area or place identified as a place of concern in a **COVID-19 areas of concern notice**.
50. **COVID-19 vaccination** means a SARS-COV-2 (COVID-19) vaccine that is approved or recognised by the Australian Therapeutic Goods Administration.
51. **Exemption form** means a form approved by the Chief Health Officer for the purposes of Part 2 or Part 3.

52. Unless stated otherwise in writing by the Chief Health Officer, **designated premises** means:
- a. if the person is normally a **resident of the Australian Capital Territory**:
 - i. If the person can maintain appropriate separation from members of the household – their usual place of residence, or
 - ii. if the person cannot maintain appropriate separation from members of the household – premises approved in writing by the Chief Health Officer or an **authorised person** as suitable for quarantine purposes;
 - b. if the person is not a **resident of the Australian Capital Territory**:
 - i. premises approved in writing by the Chief Health Officer or an **authorised person** as suitable for quarantine purposes
53. **Fully vaccinated** means a person who, no later than fourteen days before entry to the Australian Capital Territory:
- a. has received the number of doses required for a complete course of a **COVID-19 vaccination**; or
 - b. has a **medical contraindication certificate** issued to the person; or
 - c. has a **medical contraindication certificate** recorded on the Australian Immunisation Register that prevents the person from receiving a **COVID-19 vaccination**.
54. **Medical contraindication certificate** means a certificate issued by a medical practitioner:
- a. provided in a form approved by the ACT Chief Health Officer certifying that because of a specified medical contraindication, the person to whom the certificate has been issued cannot have any available **COVID-19 vaccination**; or
 - b. provided in a form approved by another State or Territory Government certifying that because of a specified medical contraindication, the person to whom the certificate has been issued cannot have any available **COVID-19 vaccination**.
55. **Period of quarantine** for a person:
- a. under Part 4 means the period applying to the person under paragraph 25; and
 - b. under Part 5 means the period applying to the person under paragraph 29.
56. **Parental responsibility** is as defined in section 15 of the *Children and Young People Act 2008*.
57. **Resident of the Australian Capital Territory** means a person whose principal place of residence, or home that the person primarily occupies on an ongoing and permanent basis, is in the Australian Capital Territory.
58. **Self-declaration form** means a form approved by the Chief Health Officer for the purposes of Part 2 or Part 3.

59. For an **affected person** who is a child, **unaccompanied** means without the presence of a person with **parental responsibility**.

Guidance

60. If a person tests positive to COVID-19 while in the Australian Capital Territory, they must comply with the *Public Health (Diagnosed People and Close Contacts) Emergency Direction 2021 (No 5)*.
61. Guidance is provided at Attachment A in relation to the exemption process for a person who is not vaccinated and not a resident of the Australian Capital Territory in Part 3 and Part 5.
62. Guidance is provided at Attachment B in relation to persons entering the Australian Capital Territory by road for transport or freight purposes.

Dr Kerryn Coleman

Chief Health Officer

3 November 2021

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).



ATTACHMENT A

Guidance for exemption

- Applications for exemption from this Direction for an **affected person** who is not a **resident of the Australian Capital Territory** must be submitted not more than one week in advance of proposed travel to the Australian Capital Territory and no less than 72 hours in advance of the proposed travel date.
- If an **affected person** requires an exemption, approval or other permission (an **authorisation**) to leave a State or territory, that authorisation must be obtained prior to applying for an exemption to enter the Australian Capital Territory and evidence of the authorisation must be provided.
- It is highly unlikely that an exemption will be granted at the point of arrival in the Australian Capital Territory.
- Applications are prioritised according to travel date and those with long lead times are unlikely to be processed earlier than one week before travel, due to the possibility of changing border restrictions.
- Applications for exemption will only be granted in highly exceptional circumstances. Testing and stay at home requirements will apply even if an exemption to enter the Australian Capital Territory has been granted.
- Only the following exceptional circumstances will be considered for an exemption:
 - d. Providing essential services in the Australian Capital Territory which may include the following industries:
 - i. health care;
 - ii. government, law enforcement or military;
 - iii. Member of Parliament or staff;
 - iv. education;
 - v. agriculture (please check eligibility by referring to the Australian Government's Agriculture Worker's code);
 - vi. maintenance or repair of critical infrastructure;
 - vii. construction, engineering, or manufacturing.
 - e. compassionate grounds e.g. visiting a family member receiving palliative care;
 - f. attending the funeral of an immediate family member;
 - g. needing to attend medical appointments;
 - h. needing a service only available in the ACT, which is time critical;
 - i. entering for child access or critical care arrangements;
 - j. required to attend court or legal proceeding; or
 - k. moving permanently to the ACT.

ATTACHMENT B

Risk Mitigation Guidance for persons entering the Australian Capital Territory by road for transport or freight purposes

This Direction should be read in conjunction with the *Freight Movement Code for the Domestic Border Controls* which is available at:

- www.covid19.act.gov.au or
- https://www.infrastructure.gov.au/vehicles/vehicle_regulation/files/freight-movement-code-for-the-domestic-border-controls.pdf

The *Freight Movement Code for the Domestic Border Controls* provides risk mitigations for freight workers, as follows:

Freight workers should:

- Minimise all interactions on route (e.g. not attend public venues except for essential visits, such as resupply and refuelling);
- Check in at all venues and document all interactions by registering applicable QR codes or filling supplementary work diary record sheets where no electronic means of tracking is available;
- Undertake daily symptom screening;
- Access education and training to recognise COVID-19 symptoms and follow relevant protocols if symptoms occur
- Access daily risk communication related to declared Commonwealth hotspots, jurisdictional lockdowns and required control measures;
- For all interactions, wear masks, minimise time taken for loading and unloading and all interactions (industry to review touch points to reduce risk); and
- For all interactions, comply with prevailing health orders of the jurisdiction they are in.
- Testing program:
 - Freight workers crossing state/territory borders are required to have a negative COVID-19 test result in a rolling 7-day period.

Accessibility

If you have difficulty reading a standard printed document and would like an alternative format, please phone 13 22 81.



If English is not your first language and you need the Translating and Interpreting Service (TIS), please call 13 14 50.

For further accessibility information, visit: www.health.act.gov.au/accessibility

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