

Australian Capital Territory

# Public Health (Check In Requirements) Emergency Direction 2021 (No 4)

**Notifiable Instrument NI2021-685**

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 (Check In Requirements) Emergency Direction 2021 (No 4)*.

## 2. Commencement

This instrument commences at 12:00pm on 15 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 (Check In Requirements) Emergency Direction 2021 (No 3)* [NI2021-673].

Dr Kerryn Coleman  
Chief Health Officer

15 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 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.

The purpose of this Direction is to limit the spread of coronavirus disease 2019 (**COVID-19**), caused by the novel coronavirus SARS-CoV-2 by requiring reliable attendance records, which enable rapid and effective contact tracing.

In making these directions I have had regard to relevant human rights and I am satisfied that the limitations imposed as a result of these Directions are both demonstrably justifiable in a free and democratic society and necessary to protect the ACT community from the serious public health risk posed by COVID-19.

## **PART 1 – REGISTERING TO USE THE CHECK IN CBR APP**

*Note:* This Direction must be read in conjunction with Directions contained within the Public Health (Restricted Activities) Emergency Direction 2021 (No 6), as amended or replaced from time to time.

### **A. Retail Settings and restricted businesses, activities or undertakings**

1. A person who owns, controls or operates a **retail setting** or **restricted business, activity or undertaking** must, for contact tracing purposes, register to use the **Check In CBR app**, and comply with the Directions in Part 2.

### **B. Organised Events**

2. A person who organises an **organised event** must, unless the venue of the **organised event** has already done so, for contact tracing purposes, register to use the **Check In CBR app**, and comply with Part 2 of this Direction.

### **C. Public Passenger Vehicles**

3. A person who owns or operates a **public passenger vehicle** must, for contact tracing purposes, register to use the **Check In CBR app**, and comply with Part 2 of this Direction.



4. However, a person who owns or operates a **public passenger vehicle** is exempt from complying with paragraphs 9 and 11 of this Direction.

#### D. Building site

5. A person in control of a **building site** must, for contact tracing purposes, register to use the **Check In CBR app**, and comply with Part 2 of this Direction.
6. A person in control of a **building site** is not required to register to use the **Check In CBR app** for site work at an occupied residential premises.

## PART 2 – REQUIREMENTS FOR USING THE CHECK IN CBR APP

### A. Directions

7. A person required to register to use the **Check In CBR app** must:
  - a. display a QR code for the **Check In CBR app** for people to record their attendance at the **premises or organised event**; and
  - b. take all reasonable steps to ensure that people aged 16 years or older, who attend for any purpose, record their attendance at the **premises or organised event** using the **Check In CBR app**.
8. Paragraph 7(b) does not apply to a **worker** attending an **event venue** when there is no **organised event**.

*Example 1:* Reasonable steps for a **restricted business, activity or undertaking, building site, retail setting or organised event** may include:

- displaying signage in places accessible to people who attend the **premises**;
- actively monitoring points of entry to ensure that people are checking-in;
- asking staff to ensure that patrons show their **Check In CBR app** 'green tick' demonstrating that they have checked in; and
- utilising the business profile function to assist patrons who are unable to check in.

*Example 2:* Reasonable steps for a **public passenger vehicle** may include:

- for a light rail vehicle or public bus, displaying signage in places accessible to people who attend the **premises**;
- for a taxi, rideshare vehicle or hire car, ensuring drivers ask passengers to use the **Check In CBR app**.



9. If the **Check In CBR app** is unavailable for use at the **premises** or an **organised event** as a direct result of a failure with the **Check In CBR app**, a person required to register to use the **Check In CBR app** must:
- a. keep a written record of:
    - i. the first name and contact phone number of each person who attends the **premises** or **organised event**; and
    - ii. the date and time at which each person attended the **premises** or **organised event**; and
  - b. retain the record for 28 days; and
  - c. produce the record if requested by an **authorised person**; and
  - d. not use the written record for any purpose other than for production to an **authorised person**.

*Note: A person required to register to use the **Check In CBR app** must take all reasonable steps to ensure that people aged 16 years or older record their attendance, including assisting those people to check in utilising the business profile function.*

*It is an offence under section 2D of the COVID-19 Emergency Response Act 2020 (ACT) for a person to collect check in information other than through the direct entry of the information into the **Check In CBR app** or as permitted under this Direction.*

10. A person aged 16 years or older who for any purpose attends the **premises** or **organised event** which is registered to use the **Check In CBR app** must record their attendance using the **Check In CBR app**.
11. However, a **worker** who is performing work at an **event venue** is only required to record their attendance using the **Check In CBR app** at an **event venue** when there is an **organised event**.

*Note: A **worker** who is working at an **event venue** when an **organised event** is not held there is not required to record their attendance using the **Check In CBR app**.*

12. However, if the **Check In CBR app** is unavailable as a direct result of a failure with the **Check In CBR app**, a person aged 16 years or older must provide their first name and contact phone number to the person required to register to use the **Check In CBR app**, together with the date and time at which the person attended the **premises** or **organised event**.
13. A person required to register to use the **Check In CBR app**, including staff employed by that person, may refuse entry to any person who fails to comply with the requirement to use the **Check In CBR app**.



14. A person is not required to use the **Check In CBR app** if the person:
- a. does not leave their private vehicle when attending the **premises**;  
*Example: A drive-through take-away food service.*
  - b. pays for a transaction without entering the **premises**;  
*Example: A service station where customers pay using a contactless payment method at a bowser (or equivalent).*
  - c. is an **emergency services** worker or volunteer who attends the **premises** or **organised event** in the course of their official duties;
  - d. is an **authorised person** who attends the **premises** or **organised event** in the course of their official duties.

## PART 3 – MISCELLANEOUS

### A. Directions

15. An **authorised person** may ask a person for any information necessary to determine whether the person is subject to this Direction.
16. Any person must comply with any request made under paragraph 15 by an **authorised person**.
17. 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, upon request, to produce proof of identification to the **authorised person**.
18. Any person subject to this Direction must comply with any request under paragraph 17 by an **authorised person**.

### B. Exemptions from this Direction

19. 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 grounds that the Chief Health Officer considers reasonable and appropriate
20. 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.



## C. Definitions

For the purposes of this Direction:

21. **Authorised person** means an authorised person under section 121 of the *Public Health Act* and includes an authorised medical officer under the *Public Health Act*.
22. **Building site** means a location where site work, as defined in section 7A of the *Building Act 2004* (ACT), takes place.
23. **Check In CBR app** means the mobile application developed and operated by ACT Health to allow people to record their presence at a place using a mobile device for contact tracing purposes.

*Note:* The information provided is stored for 28 days before being deleted or as soon as reasonably practicable after being used for a purpose under the *COVID-19 Emergency Response Act 2020* (ACT).

24. **Emergency services** means the ambulance service, the police, the fire and rescue service, the rural fire service or the SES.
25. **Event venue** means the **restricted businesses, activities or undertakings** mentioned in items 20, 21, 22, 23, 24, 32 and 34 of Attachment 1 of the *Public Health (Restricted Activities) Emergency Direction 2021 (No 6)*.
26. **Gathering** has the same meaning as in the *Public Health (Restricted Activities) Emergency Direction 2021 (No 6)*.

*Example:* Events that are not considered an organised event include: private birthday parties at residential premises; and extended family picnics at local public places.

27. **Restricted businesses, activities or undertakings** has the same meaning as in the *Public Health (Restricted Activities) Emergency Direction 2021 (No 6)*, but excludes:
  - a. Early childhood education and care facilities, including out of school hours care;
  - b. Schools;  
  
*Note:* Schools and early childhood education and care must ensure that visitors record their attendance as a requirement under the *Public Health (Restricted Activities) Emergency Direction 2021 (No 6)* and outlined in the *Health Guidelines for Schools and Early Childhood and Education Services*.
  - c. Higher education facilities;
  - d. Building and construction activities.

*Note:* **Building sites** have been defined and dealt with separately in this Direction.

28. **Organised event** means an organised **gathering** for a planned event or function but does not include a private function or event at an outdoor setting or residential premises.
29. **Premises** means:
- a. the place from which a **retail setting, building site, or restricted businesses, activities or undertaking** operates; and
  - b. a **public passenger vehicle**.
30. **Public passenger vehicle** means a public bus, light rail vehicle, taxi, rideshare vehicle or hire car as defined under the *Road Transport (Public Passenger Services) Act 2001*.

*Note:* A bus chartered for a school excursion is not captured by the definition of a public bus.

31. **Retail setting** means any business involved in the sale or hire of goods by retail, or the supply of services by retail, other than **restricted businesses, activities or undertakings**, including but not limited to:
- a. a motor vehicle and motor vehicle parts trading retailer;
  - b. a fuel retailer;
  - c. a food retailer, including:
    - i. supermarkets and grocery stores;
    - ii. fresh meat, fish and poultry retailers;
    - iii. liquor retailers;
    - iv. other specialised food retailers;
  - d. a shopfront providing services to the general public, including:
    - i. automotive repair and maintenance services;
    - ii. domestic appliance repair and maintenance services;
    - iii. laundry and dry cleaning services;
    - iv. photographic and film processing services;
  - e. a store-based retailer, including:
    - i. furniture, floor coverings, houseware and textile goods retailers;
    - ii. electrical and electronic goods retailers;
    - iii. hardware, building and garden supplies retailers;

- iv. pharmaceutical, cosmetic and toiletry goods retailers;
  - v. stationery goods retailers;
  - vi. flower retailers;
  - f. a recreational goods retailer, including:
    - i. sport and camping equipment retailers;
    - ii. entertainment media retailers;
    - iii. toy and games retailers;
    - iv. newspaper and book retailers;
    - v. marine equipment retailers;
  - g. a clothing, footwear and personal accessory retailer, including:
    - i. watch and jewellery retailers;
    - ii. other personal accessory retailers;
    - iii. clothing and footwear repair services;
  - h. a department store;
  - i. a take-away food service;
  - j. a **shopping centre**.
32. **Shopping centre** has the same meaning as in s 8 of the *Leases (Commercial and Retail) Act 2001*.
33. **Worker** has the same meaning as s 7 of the *Work Health and Safety Act 2011* (ACT).

**Dr Kerryn Coleman**  
Chief Health Officer

15 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).

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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