

Australian Capital Territory

Public Health (Chief Health Officer) COVID-19 Management Direction and Exemption 2022 (No 1)

Notifiable instrument NI2022-483

made under the

**Public Health Act 1997, s 118U (Chief health officer directions—general) and
s 118ZD (Standing exemption)**

I make the directions as set out below.

Dr Kerry Coleman
Chief Health Officer

29 September 2022

Australian Capital Territory

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Contents

		Page
Part 1	Preliminary	
1	Name of instrument	1
2	Commencement	1
3	Dictionary	1
4	Directions	1
5	Standing exemptions	1
6	Grounds for directions	1
7	Duration	2
Part 2	Diagnosed people	
8	Application—pt 2	3
9	Diagnosed people to isolate—direction	3

	Page	
10	Clearance from isolation	5
11	Diagnosed person to notify others—direction	5
12	Diagnosed person to register positive RAT result—direction	6
Part 3	Household contacts	
13	Application—pt 3	8
14	Household contacts to quarantine—direction	8
Part 4	Standing exemptions	
Division 4.1	Standing exemption—recovered people	
15	Exemption for recovered people	10
Division 4.2	Standing exemption—household contacts	
16	Meaning of <i>exemption period</i> —pt 4	10
17	Exemption for household contacts	10
18	Attending work—condition	11
19	Attending educational institution—condition	12
20	High-risk settings—condition	12
21	Gatherings etc—condition	13
22	Complying with Ministerial directions—condition	13
Part 5	Transitional	
23	Diagnosed person under repealed instrument	14
24	Household contact under repealed instrument	14
Dictionary		15

Part 1 Preliminary

1 Name of instrument

This instrument is the *Public Health (Chief Health Officer) COVID-19 Management Direction and Exemption 2022 (No 1)*.

2 Commencement

This instrument commences on 30 September 2022.

3 Dictionary

The dictionary at the end of this instrument is part of this instrument.

4 Directions

I make the directions set out in parts 2 and 3 in relation to the *Public Health (COVID-19 Management) Declaration 2022 (No 1)*.

5 Standing exemptions

I exempt a person mentioned in part 4 from complying with the stated requirements of this instrument, subject to the stated conditions (if any) for the person.

6 Grounds for directions

- (1) I consider the directions are necessary to prevent or alleviate the risk presented by COVID-19 on the following grounds:
 - (a) COVID-19 poses a serious public health risk in the ACT;
 - (b) the World Health Organization declared the Omicron variant of COVID-19 to be a variant of concern on 26 November 2021;

- (c) the Omicron variant of COVID-19 is highly transmissible and remains the dominant variant globally, and in the ACT following its introduction on 3 December 2021;
 - (d) the BA.4 and BA.5 sub-lineages of the Omicron variant are the dominant sub-lineages in Australia, being more prone than BA.2 to escaping immunity provided by vaccination and earlier COVID-19 infection, and are associated with an increase in infections;
 - (e) the ACT has experienced persistent community transmission since the outbreak of COVID-19 on 12 August 2021;
 - (f) while community transmission in the ACT (and nationally) has eased since early September 2022, there continues to be a necessity to limit the impact of COVID-19 in the ACT to mitigate the burden on people who are most vulnerable to severe disease and the Territory's public health system, which includes continued monitoring and support for the public health response.
- (2) I am satisfied that the limitations imposed by the directions on human rights are reasonable and demonstrably justifiable in a free and democratic society.

7 Duration

This instrument is in force for a period of 90 days.

Part 2 Diagnosed people

8 Application—pt 2

- (1) This part applies to a diagnosed person.
- (2) A *diagnosed person* is a person who has tested positive to COVID-19 as a result of a rapid antigen test or a PCR test and not been cleared from isolation.

9 Diagnosed people to isolate—direction

- (1) A diagnosed person must isolate in accordance with the requirements of this section.
- (2) The diagnosed person must, immediately on becoming aware that they have tested positive to COVID-19, isolate at designated premises until the person is cleared from isolation.
- (3) If the diagnosed person is not at designated premises when they become aware they have tested positive to COVID-19—
 - (a) the person must immediately travel directly to designated premises; or
 - (b) if the person requires medical treatment at a hospital for COVID-19, the person must—
 - (i) immediately travel directly to a hospital for the treatment; and
 - (ii) immediately on being discharged from the hospital or otherwise leaving the hospital, travel directly to designated premises.

- (4) The diagnosed person must not leave the designated premises other than—
- (a) in an emergency; or
 - (b) to undertake a PCR test at a COVID-19 testing facility operated by the Territory; or
 - (c) to obtain medical treatment on the advice of any of the following:
 - (i) an ACT COVID-19 Care@Home team member;
 - (ii) a public health officer;
 - (iii) a medical practitioner.

Examples—par (a)

- 1 the person is required to evacuate the place in an emergency such as a fire
- 2 the person needs urgent medical treatment
- 3 the person is escaping family violence

- (5) The diagnosed person must not allow any person who does not ordinarily live at the designated premises to enter the premises other than—
- (a) for an emergency purpose; or
 - (b) for a law enforcement purpose; or
 - (c) to provide essential support to a person who ordinarily lives at the premises.

Examples—par (a)

- urgent medical assistance
- urgent maintenance to make a place habitable

10 Clearance from isolation

- (1) A diagnosed person is cleared from isolation at the end of the 5th day after the day the diagnosed person undertook the COVID-19 test that resulted in them becoming a diagnosed person.

Example

A person undertook a RAT on 1 October which returned a positive result to COVID-19, and subsequently undertook a PCR test, which also returned a positive result. The person became a diagnosed person on the day the person undertook the RAT, which is day 0, so the person must isolate until the end of 6 October.

- (2) Also, a diagnosed person who tests positive to COVID-19 as a result of a rapid antigen test is cleared from isolation if the person—
- (a) tests negative to COVID-19 as a result of a PCR test undertaken within 2 days after testing positive as a result of the rapid antigen test; and
 - (b) is notified that they are no longer considered to be a diagnosed person by—
 - (i) a public health officer; or
 - (ii) a staff member of the COVID-19 Response Operations Branch, operated by ACT Health.

11 Diagnosed person to notify others—direction

A diagnosed person must, as soon as possible after becoming aware that they are a diagnosed person, take reasonable steps to notify the following people of the positive result:

- (a) a person who ordinarily lives with the diagnosed person;
- (b) if the diagnosed person attended their workplace during their infectious period—their employer or other person who engages them;
- (c) if the diagnosed person attended a childcare facility during their infectious period—the facility;

- (d) if the diagnosed person attended an educational institution during their infectious period—the institution;
- (e) if the diagnosed person attended a high-risk setting during their infectious period—the operator of the high-risk setting.

12 **Diagnosed person to register positive RAT result—direction**

- (1) This section applies to a diagnosed person who tests positive to COVID-19 as a result of a rapid antigen test.
- (2) The diagnosed person must, as soon as practicable after becoming aware that they have tested positive, register the positive result with ACT Health.

Note The online form for registering a positive RAT is accessible at www.covid19.act.gov.au.

- (3) However, if the diagnosed person is detained at a correctional centre or detention place, the responsible director-general for the centre or place must, as soon as practicable after becoming aware of the positive result, notify the chief health officer in writing of the relevant information for the diagnosed person.
- (4) Also, if the diagnosed person is a resident of a residential aged care facility, the operator of the facility must, as soon as practicable after becoming aware of the positive result, notify the chief health officer in writing of the relevant information for the diagnosed person.
- (5) For subsections (3) and (4), the *relevant information* for a diagnosed person is the following:
 - (a) the person's name and date of birth;
 - (b) the day the positive test was taken;
 - (c) where the person is isolating;

- (d) the contact details of a person who is to be given any notices that would otherwise be given to the diagnosed person under this instrument.
- (6) In this section:
- responsible director-general*** means—
- (a) for a correctional centre—the director-general responsible for administering the *Corrections Management Act 2007*; and
 - (b) for a detention place—the director-general responsible for administering the *Children and Young People Act 2008*, chapter 6.

Part 3 Household contacts

13 Application—pt 3

- (1) This part applies to a person who is a household contact of a diagnosed person.
- (2) A person is a *household contact* of a diagnosed person if—
 - (a) the person ordinarily lives with the diagnosed person; and
 - (b) the person is living with the diagnosed person at any time during the diagnosed person's infectious period or while the diagnosed person is required to isolate under this instrument.

14 Household contacts to quarantine—direction

- (1) A household contact of a diagnosed person must quarantine in accordance with the requirements of this section.
- (2) The household contact must, immediately on becoming aware that they are a household contact, quarantine at designated premises until—
 - (a) the end of the 7th day after the day the diagnosed person undertook the COVID-19 test that resulted in them becoming a diagnosed person; or
 - (b) the diagnosed person is notified under section 10 (2) that they are no longer considered to be a diagnosed person.
- (3) If the household contact is not at designated premises when they become aware they are a household contact, they must immediately travel directly to designated premises.

- (4) The household contact must not leave the designated premises other than—
- (a) in an emergency; or
 - (b) to undertake a PCR test at a COVID-19 testing facility operated by the Territory.

Examples—par (a)

- 1 the person is required to evacuate the place in an emergency such as a fire
- 2 the person needs urgent medical treatment
- 3 the person is escaping family violence

- (5) The household contact must not allow any person who does not ordinarily live at the designated premises to enter the premises other than—
- (a) for an emergency purpose; or
 - (b) for a law enforcement purpose; or
 - (c) to provide essential support to a person who ordinarily lives at the premises.

Examples—par (a)

- urgent medical assistance
- urgent maintenance to make a place habitable

Part 4 Standing exemptions

Division 4.1 Standing exemption—recovered people

15 Exemption for recovered people

(1) A recovered person is exempt from complying with the requirements under this instrument.

(2) In this section:

recovered person means a person who—

- (a) was a diagnosed person under this instrument or the repealed instrument; and
- (b) has been cleared from isolation within the previous 28 days under—
 - (i) section 10 (1); or
 - (ii) the repealed instrument.

Division 4.2 Standing exemption—household contacts

16 Meaning of *exemption period*—pt 4

For this part, a household contact's *exemption period* is the period during which the person would be required to quarantine under section 14 if they were not exempt.

17 Exemption for household contacts

A household contact is exempt from complying with the requirements of section 14 if the person—

- (a) does not have any COVID-19 symptoms; and

- (b) complies with the conditions set out in this part during the exemption period.

18 Attending work—condition

- (1) This section applies to a household contact who intends to attend their workplace during the exemption period.
- (2) The household contact must notify their employer that they are a household contact before attending the workplace.
- (3) The household contact must undertake a COVID-19 test—
- (a) within 24 hours before first attending the workplace during their exemption period (the *first test*); and
- (b) if the person intends to attend their workplace throughout their exemption period—every 48 hours after undertaking the first test.
- (4) In this section:

employer, of a household contact, means a person who engages the household contact to carry out work in the person's business or undertaking—

- (a) under an arrangement with the household contact; and
- (b) whether for reward or otherwise.

Examples—arrangement with household contact

- employment
- independent contract
- outwork
- work experience
- voluntary

workplace, of a household contact, means a place where the household contact carries out work for a business or undertaking and where the household contact has face-to-face contact with other workers or members of the public.

19 Attending educational institution—condition

- (1) This section applies to a household contact who is a student of an educational institution and intends to attend the institution during their exemption period.
- (2) The household contact must notify the educational institution that they are a household contact before attending the institution.
- (3) The household contact must undertake a COVID-19 test—
 - (a) within 24 hours before first attending the educational institution during their exemption period (the *first test*); and
 - (b) if the person intends to attend the educational institution throughout their exemption period—every 48 hours after undertaking the first test.

20 High-risk settings—condition

- (1) A household contact must not attend a high-risk setting during their exemption period.
- (2) Subsection (1) does not apply to the following:
 - (a) for a hospital—a patient of the hospital or person otherwise attending the hospital to obtain urgent or time critical medical treatment;
 - (b) for a correctional centre or detention place—a detainee of the centre or place;
 - (c) for a residential aged care facility or other residential care facility—a resident of the facility;

- (d) a person who has permission from the operator of the high-risk setting to attend the setting as a household contact.

21 Gatherings etc—condition

- (1) This section applies to a household contact who, during their exemption period, intends to attend a gathering that—
- (a) is planned to take place on a particular day or at a particular time; and
- (b) will involve face-to-face contact with people.

Examples—planned event

- an appointment
- a funeral

- (2) The household contact must undertake a COVID-19 test within 24 hours before attending the gathering.

Note Household contacts should avoid gatherings during their exclusion period unless unavoidable (see the risk mitigation requirements for household contacts, available at www.covid19.act.gov.au).

22 Complying with Ministerial directions—condition

A household contact must comply with any Ministerial direction that applies to them during their exemption period.

Example

a direction to wear a face mask when not at designated premises

Part 5 Transitional

23 Diagnosed person under repealed instrument

- (1) This section applies to a person if, immediately before the commencement of this instrument—
 - (a) the person was a diagnosed person under the repealed instrument; and
 - (b) the person's period of isolation had not ended.
- (2) The person is taken to be a diagnosed person under this instrument.

24 Household contact under repealed instrument

- (1) This section applies to a person if, immediately before the commencement of this instrument—
 - (a) the person was a household contact under the repealed instrument; and
 - (b) the person's period of quarantine had not ended.
- (2) The person is taken to be a household contact under this instrument.
- (3) In this section:

period of quarantine, for a person, means the period of quarantine that the household contact—

 - (a) was required to undertake under the repealed instrument as a household contact; or
 - (b) would have been required to undertake under the repealed instrument as a household contact if the person was not exempt from the requirement under the repealed instrument.

Dictionary

(see s 3)

Note 1 The Legislation Act contains definitions relevant to this instrument. For example:

- correctional centre
- detention place
- medical practitioner.

Note 2 Terms used in this instrument have the same meaning that they have in the *Public Health Act 1997*.

ACT COVID-19 Care@Home team member means a person who works for the ACT COVID-19 Care@Home program, operated by the Canberra Health Service.

childcare facility means—

- (a) a childcare centre within the meaning of the *Children and Young People Act 2008*, section 733; or
- (b) a family day care scheme, within the meaning of the *Children and Young People Act 2008*, section 734, operated from residential premises.

cleared, from isolation, means cleared from isolation under section 10.

COVID-19 symptom means a symptom associated with COVID-19, including a new or acute onset of any of the following:

- (a) fever or chills;
- (b) cough;
- (c) sore throat;
- (d) shortness of breath or difficulty breathing;
- (e) loss of smell or taste;
- (f) runny or blocked nose.

Examples—new or acute onset

- 1 A person suffers from hay fever regularly but has not had any hay fever symptoms recently. The person is living with someone who is diagnosed with COVID-19 and is therefore a household contact. The person develops a runny nose. It is a COVID-19 symptom even though it may also be consistent with hay fever.
- 2 A person has had a longstanding cough (chronic cough). The person is living with someone who is diagnosed with COVID-19 and is therefore a household contact. The person notices that the nature of their cough changes. The cough is a COVID-19 symptom.

COVID-19 test means a PCR test or a rapid antigen test.

designated premises, for a person, means the person's residence or another place suitable for the person to live in.

diagnosed person—see section 8 (2).

essential support, for a person, means support or assistance that would likely result in the person experiencing a deterioration in their health or wellbeing if they did not receive it, and includes support or assistance with the following:

- (a) personal care;
- (b) meal preparation;
- (c) exercise or physiotherapy.

exemption period, for part 4 (Standing exemptions)—see section 16.

high-risk setting means any of the following:

- (a) a hospital;
- (b) a correctional centre, detention place or other place of detention;
- (c) a residential aged care facility or other residential care facility.

household contact—see section 13 (2).

infectious period, of a diagnosed person, means the period of 2 days immediately prior to the earlier of the following:

- (a) when the diagnosed person first experienced COVID-19 symptoms;
- (b) when the diagnosed person first tested positive for COVID-19.

PCR test means a reverse transcription polymerase chain reaction (PCR) test to diagnose COVID-19.

rapid antigen test (or **RAT**) means a rapid antigen test approved by the Therapeutic Goods Administration, Commonwealth Department of Health, for use in Australia to detect COVID-19.

repealed instrument means the *Public Health (Diagnosed People and Household Contacts) Emergency Direction 2022 (No 8)* (NI2022-440) (repealed).

residential aged care facility means a residential facility that provides residential care within the meaning of the *Aged Care Act 1997* (Cwlth), section 41-3 to residents at the facility.

residential care facility means a residential accommodation facility for people who require frequent and close personal care, and are vulnerable to severe disease.