

# EMERGENCY MANAGEMENT ACT 2005 (WA)

## Sections 67 and 72A

### AIR TRAVEL (FACE COVERING) DIRECTIONS (NO 2)

The World Health Organization declared COVID-19 a pandemic on 11 March 2020.

On 15 March 2020, the Minister for Emergency Services declared a state of emergency with effect from 12 am on 16 March 2020 in respect of the pandemic caused by COVID-19 pursuant to section 56 of the *Emergency Management Act 2005 (WA) (Act) (State of Emergency)*. The State of Emergency applies to the State of Western Australia.

I, Colin John Blanch, Acting Commissioner of Police and State Emergency Coordinator, now give the following directions, pursuant to my powers under sections 67 and 72A of the Act.

#### PREAMBLE

1. The purpose of these directions is to limit the spread of COVID-19.

#### CITATION

2. These directions may be referred to as the **Air Travel (Face Covering) Directions (No 2)**.

#### COMMENCEMENT

3. These directions come into effect at 12.01 am on 29 April 2022.

#### REVOCATION

4. The Air Travel (Face Covering) Directions are revoked.

#### DIRECTIONS

##### **Requirement to wear a face covering in certain places**

5. Subject to paragraph 7, a person must wear a **face covering** at all times while they are at, on or in an **affected place**.
6. A person must not enter or remain at, on or in an affected place unless the person is wearing a face covering or one or more of the face covering exceptions in paragraph 7 apply to that person at that time.

## Exceptions to face covering requirements

7. A person is not required to wear a face covering where:
- (a) the person is a child under the age of 12 years; or
  - (b) the person has a physical, developmental or mental illness, injury, condition or disability which makes wearing a face covering unsuitable; or
  - (c) the person is communicating with a person who is deaf or hard of hearing and visibility of the mouth is essential for communication; or
  - (d) the nature of a person's occupation means that wearing a face covering at that time is impractical to perform that occupation or creates a risk to their health and safety; or
  - (e) the person needs to temporarily remove their face covering so as to enable another person to appropriately perform their occupation; or
  - (f) the nature of a person's work or the activity that they are engaging in means that clear enunciation or visibility of the mouth is essential; or
  - (g) the person is consuming food, drink or medicine provided that the person:
    - (i) is seated at the time; and
    - (ii) is not in a vehicle **engaged in transport services**; or
  - (h) the person is asked to remove the face covering to ascertain identity; or
- Example: a person may be asked by police, security, **airport** or flight staff to remove a face covering to ascertain identity*
- (i) not wearing a face covering is required for emergency purposes (other than emergency preparation or emergency preparation activities, unless another exception specified in this paragraph applies); or
  - (j) the person is working in the absence of others in an enclosed **indoor space** (other than on an aircraft, unless another exception specified in this paragraph applies); or
- Example: a person working by themselves in an office*
- (k) the person is working by themselves in an **outdoor space**, provided no other person in the outdoor space is within 1.5 metres of the person; or

- (l) the person is running or jogging or otherwise engaged in some form of strenuous or vigorous exercise or physical activity; or
- (m) the person is travelling in a vehicle and either is the sole occupant of that vehicle or is travelling in the vehicle with other persons provided that all the occupants of the vehicle are members of the same **household**; or
- (n) the person is in custody; or

*Note: nothing in these directions affects any other power a person may have to require a prisoner or detainee to wear a face covering*

- (o) the person is an instructor on an aircraft that is being used for the purposes of training for a trainee pilot; or
- (p) the person is a member of the **flight crew** of an aircraft and there are no passengers on board the aircraft at the time; or
- (q) the person is the sole occupant of an aircraft; or
- (r) not wearing a face covering is otherwise required or authorised by law; or
- (s) wearing a face covering is not safe in all the circumstances; or
- (t) the person has been given a **direction** by an **authorised officer** that they are not required to wear a face covering,

provided that:

- (u) a person is only excepted from the requirement to wear a face covering under paragraph 7(b) if the person produces an **approved medical certificate** that certifies that the person has an illness, injury, condition or disability that makes wearing a face covering unsuitable:
  - (i) upon request by an authorised officer; or
  - (ii) if requested to do so whilst at or on any affected place, by the **responsible person** for the affected place or by the **staff** of the responsible person; and
- (v) where a person is relying on an exception under paragraphs 7(c) to 7(t), that person resumes wearing the face covering as soon as reasonably practicable after the person no longer falls within the relevant exception; and

- (w) where a person has been given a direction under paragraph 7(t), the person complies with any conditions associated with any such direction.
8. A person who is subject to a **quarantine requirement** and **engages in a transport service** must advise the **driver** and any other occupants of the vehicle that the person is subject to the quarantine requirement.
9. A patron who is requested by an authorised officer, a responsible person or a member of staff of the responsible person to produce an approved medical certificate that certifies that the person has an illness, injury, condition or disability that makes wearing a face covering unsuitable must not act in a manner that is threatening, intimidating or offensive towards an authorised officer, a responsible person or any member of staff of the responsible person.
10. For the avoidance of doubt, the requirements set out in these directions are in addition to, and do not derogate from, any other requirement to wear a mask or face covering contained in any other direction.

## **INTERPRETATION**

11. Unless specified otherwise, any reference in these directions to any other direction made by the State Emergency Coordinator is deemed to be a reference to that direction as amended or replaced from time to time.

## **DEFINITIONS**

12. **Affected place** means:
- (a) a **domestic aircraft** in a **relevant area**; or
  - (b) an airport; or
  - (c) a vehicle engaged in transport services.
13. **Airport** means an area of land or water that is used or intended to be used for the landing and take-off of aircraft, and includes any aircraft, jetway or gangway (however described), terminal, baggage handling facility and other buildings or facilities on the land or water that are ancillary to or connected with the operation of the airport, if any, but does not include any building or facility outside the terminal or any outdoor space at which, or in which, the persons working, or present, do not at

any time knowingly come into contact with any person who is present at the airport for the purposes of travel.

14. **Approved medical certificate** means a medical certificate issued by a medical practitioner currently registered by the Australian Health Practitioner Regulation Agency.
15. **Authorised officer** has the same meaning that it has in the Act.
16. **Direction** includes any direction under the Act or the *Public Health Act 2016* (WA), whether the direction is given orally or in writing.
17. **Domestic aircraft** means an aircraft that is being used to transport passengers or carry freight or for training purposes, whether on a commercial basis or otherwise, and which takes off or lands at an airport in Western Australia but does not include an aircraft involved in the provision of emergency services.
18. **Driver** means the person operating or otherwise in control of the vehicle while it is travelling.
19. **Engaged in transport services** means travelling in a vehicle of any kind, including a private vehicle, ride-share vehicle or taxi and whether as a passenger or driver where the particular passenger or driver knows or ought reasonably to have known that at least one person in the vehicle is subject to a quarantine requirement, and **engages in a transport service** and like terms have a corresponding meaning.
20. **Face covering** means a disposable surgical mask or fitted cloth mask that covers the nose and mouth (but does not include a face shield).
21. **Flight crew** means a member of the crew of a domestic aircraft.
22. **Household** means two or more persons who usually reside at the same home, irrespective of whether those persons are related to each other.
23. **Indoor space** means an area, room or premises that is or are substantially enclosed by a roof and a **sufficient dividing structure**, regardless of whether the roof or sufficient dividing structure, or any part of them, are permanent or temporary or capable of being opened or closed.
24. **Outdoor space** means any space that is not an indoor space.

25. **Quarantine requirement** means any requirement under any other direction pursuant to which a person is required to undertake a period of quarantine in connection with COVID-19, other than a requirement to isolate under the COVID Transition (Testing and Isolation) Directions (No 12).
26. **Relevant area** means on land or waters within Western Australia or flying in airspace over Western Australia.
27. **Responsible person**, in relation to particular premises, means the occupier or other person apparently in charge of those premises.
28. **Staff** means a person who has responsibilities at a place as an officer or employee or in some other capacity (including a voluntary capacity).
29. **Sufficient dividing structure** means a wall or other structure which:
- (a) substantially comprises material that is impervious to air flow; and
  - (b) is anchored to the ground or floor in a way which ensures that it cannot be lifted or pushed apart; and
  - (c) either:
    - (i) reaches from the ground or floor to the ceiling (or roof if there is no ceiling); or
    - (ii) starts from the ground or floor and is at least 2 metres high from the ground or floor to its lowest vertical point measured from the ground or floor.

*Note: In addition to meeting these requirements, a sufficient dividing structure must comply with any other legal requirements applicable to the structure in any way, including any legal requirements relating to the structural integrity of the structure (such as, but not limited to, requirements typically imposed or administered by local governments).*

**PENALTIES**

It may be an offence to fail to comply with any of these directions, punishable by a fine of up to \$50,000 for individuals and \$250,000 for bodies corporate.

**Colin John Blanch**

Acting Commissioner of Police and State Emergency Coordinator

29 April 2022 1600 hours