

# Public Health (Restricted Activities – Gatherings, Business or Undertakings) Emergency Direction 2020 (No 2)

## Notifiable Instrument NI2020-317

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 (Restricted Activities – Gatherings, Business or Undertakings) Emergency Direction 2020 (No 2)*.

### 2. Commencement

This instrument commences at 11:59pm on 3 June 2020.

### 3. Public Health Emergency Direction

I, Dr Kerry 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 (Restricted Activities – Gatherings, Business or Undertakings) Emergency Direction 2020* [NI2020-313].

Dr Kerry Coleman  
Chief Health Officer  
3 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 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 these directions is to restrict non-essential gatherings and the operation of non-essential businesses and undertakings in order to limit the spread of coronavirus disease 2019 (**COVID-19**), caused by the novel coronavirus SARS-CoV-2.

## PART 1 — NON-ESSENTIAL GATHERINGS

### *Directions*

#### **A. Residential premises**

1. From 11.59 pm on 3 June 2020:
  - a. an occupier of residential premises must not allow a **gathering** of more than 20 people at the premises, unless those people are members of the **household**; and
  - b. an occupier of residential premises must not allow a person who is not a member of the **household** at the premises unless social distancing of 1 person per 4 square metres can be observed; and
  - c. an occupier of residential premises must not allow a person who is not a member of the **household** at the premises if:
    - i. including members of the **household**, there is a **gathering** of 20 or more people at the premises; or
    - ii. social distancing of 1 person per 4 square metres cannot be observed; and
  - d. a person who is not a member of the **household** must not be at the premises if:
    - i. including members of the **household**, there is a **gathering** of 20 or more people at the premises; or
    - ii. social distancing of 1 person per 4 square metres cannot be observed.
2. Direction A1 does not apply in circumstances where it is necessary for a person to be at residential premises:
  - a. to provide medical care and/or medical supplies; or
  - b. for a law enforcement purpose or to provide emergency services; or
  - c. in any other emergency situation.



3. Direction A1 does not apply where persons from no more than two **households** attend, enter and remain in the residential premises of one of those households, provided all persons at the premises can observe social distancing of 1 person per 4 square metres.

#### **B. Outdoor areas**

4. From 11.59 pm on 3 June 2020, a person must not organise or attend a **gathering** of more than 20 people in an **outdoor space** except where provided in Part 2 of this Direction.

#### **C. Other non-residential premises**

5. Except where provided in Part 2 of this Direction, from 11.59 pm on 3 June 2020, a person:
  - a. who owns, controls or operates **non-residential premises** in the Australian Capital Territory must take reasonable steps to not allow or organise a **gathering** of more than 20 people to occur at the **non-residential premises**; or
  - b. must not attend a **gathering** of more than 20 people at **non-residential premises** in the Australian Capital Territory.
6. Any **gathering** of people in an **indoor space** of **non-residential premises** must observe social distancing of 1 person per 4 square metres.

#### **D. Exemption**

7. The Chief Health Officer may, in writing and subject to any conditions that the Chief Health Officer considers necessary, may exempt a person from these directions on compassionate grounds.

## **PART 2 — CLOSURE OF NON-ESSENTIAL BUSINESS OR UNDERTAKING**

### *Directions*

#### **A. Non-Essential Business or Undertaking**

8. From 11.59pm on 29 May 2020, a person who owns, controls or operates a **non-essential business or undertaking** in the Australian Capital Territory must not operate that business or undertaking.
9. Direction A8 does not prohibit a person who owns, controls or operates a **non-essential business or undertaking** from entering the **premises** of the **non-essential business or undertaking** provided that a **gathering** of no more than 10 people are at the premises and social distancing of 1 person per 4 square metres is observed.
10. Direction A8 does not prohibit the operation of a **non-essential business or undertaking** to the extent that the **non-essential business or undertaking** operates solely on an online or virtual basis (for example, a streaming service), or through delivery, take-away or pickup services (for example, by selling gift vouchers or products).



## PART 3 — MATTERS RELEVANT TO THESE DIRECTIONS

### **Enforcement**

11. If a person fails to comply with these directions, an **authorised person** may then direct the person to do such things as are reasonably necessary to comply with these directions including, upon request, to produce proof of identification to the authorised person.
12. If a person fails to comply with any direction, then the **authorised person** may take all reasonable steps to enforce compliance with the direction pursuant to section 121 of *Public Health Act 1997*.

### **Guidance**

13. Risk mitigation guidance is provided at **Attachment A** to these directions. This guidance relates to all situations in which people are gathered together, whether included or excluded from the definition of **gathering**. It also relates to all businesses and undertakings, whether included or excluded from the definition of **non-essential business or undertaking**.

### **COVID-19 Plan**

14. Any requirement in this direction to develop, adhere to, and produce a COVID-19 Safety Plan takes effect from 11:59pm on 5 June 2020.

### **Definitions**

For the purposes of these directions:

15. A **household** means people who ordinarily reside at the same residential premises.
16. An **indoor space** means an area, room or premises that is, or are, substantially enclosed by a roof and walls (of solid construction and stretching from floor to ceiling), regardless of whether the roof or walls or any part of them are:
  - a. permanent or temporary; or
  - b. open or closed.
17. An **outdoor space** means a space that is not an **indoor space** or a part of residential premises.
18. **Non-residential premises** has the same meaning as **premises** in the *Public Health Act 1997*, but does not include residential premises.



19. A **gathering** means a group of people occupying a single **indoor space** or **outdoor space** at the same time, but does not include a gathering:
- a. at an airport that is necessary for the normal business of the airport; or
  - b. in relation to public transportation, including in public transport vehicles or at public transportation facilities such as stations, platforms and stops; or
  - c. for the purposes of or related to private transportation; or
  - d. at a medical or health service facility that is necessary for the normal business of the facility; or
  - e. in relation to providing support or care to a person with a disability; or
  - f. for emergency services purposes; or
  - g. for law enforcement purposes; or
  - h. at a disability or aged care facility that is necessary for the normal business of the facility; or
  - i. at a correctional centre, place of detention under the *Children and Young People Act 2008* or other place of custody; or
  - j. at a court or tribunal; or
  - k. at the Australian Capital Territory Legislative Assembly or Commonwealth Parliament for the purpose of its normal operations; or
  - l. at a food market, supermarket, grocery store, retail store, or shopping centre that is necessary for the normal business of those premises; or
  - m. to attend at a restaurant or café to collect or deliver takeaway meals and beverages and where social distancing of 1 person per 4 square metres is observed; or
  - n. at an office building, workplace factory or construction site (or any other workplace that is not excluded from operation by Part 2 of these directions), that is necessary for the normal operation of those premises; or
  - o. at a school, university, educational institution or childcare facility that is necessary for the normal business of the facility; or
  - p. at a hotel or motel that is necessary for the normal operation of accommodation services; or
  - q. at a place where more than 20 people may be present for the purposes of transiting through the place.
20. For paragraph 19(o), a school event that involves members of the community in addition to staff and students is not necessary for the normal business of the facility.

21. A **non-essential business or undertaking** means any of the following, whether operated on a for-profit or not-for-profit basis or purely as a private social activity:

- a. a gaming or gambling venue or a **casino**;
- b. a business that supplies liquor for consumption **ON** the premises, but not including any part of the business:
  - i. that sells liquor for consumption **OFF** the premises as defined by the *Liquor Act 2010*; or
  - ii. that operates as a restaurant or café (including in a hotel), to the extent that:
    - A. it involves service of dine-in meals to a **gathering** of no more than 20 customers seated in any **indoor space** and no more than 20 customers seated in any **outdoor space** and where social distancing of 1 person per 4 square metres is observed; and
    - B. it asks for a first name and contact phone number (for contact tracing purposes) of each person who attends and, if provided, keeps a record of those details and the date and time at which the person attended; and
    - C. it develops a **COVID-19 Safety Plan** to which it must adhere, and which it must produce when requested by an **authorised person**;
- c. a hotel, whether licensed or unlicensed, but not:
  - i. to the extent that it provides accommodation, takeaway meals or a meal delivery service; or
  - ii. any part of the hotel constituted by a bottleshop;
- d. a restaurant or café, other than to the extent that it provides takeaway meals or a meal delivery service, but not:
  - i. a café or canteen at a hospital; or
  - ii. a café or canteen at a residential aged care facility; or
  - iii. a café or canteen at a school; or
  - iv. a café or canteen at a correctional centre; or
  - v. a military café or canteen; or
  - vi. a café or canteen that provides food or drink to those experiencing homelessness; or
  - vii. to the extent that:
    - A. it involves service of dine-in meals to a **gathering** of no more than 20 customers seated in any **indoor space** and no more than 20 customers seated in any **outdoor space** and where social distancing of 1 person per 4 square metres is observed; and
    - B. it asks for a first name and contact phone number (for contact tracing purposes) of each person who attends and, if provided, keeps a record of those details and the date and time at which the person attended; and
    - C. it develops a **COVID-19 Safety Plan** to which it must adhere, and which it must produce when requested by an **authorised person**;



- e. a food court, but not:
  - i. to the extent that it provides takeaway meals or a meal delivery service;
- f. a gym, health club, fitness centre, or wellness centre but not:
  - i. to the extent that it involves a **gathering** of no more than 20 people (excluding the instructors, personal trainers and staff on duty) and where social distancing of 1 person per 4 square metres is observed; and
  - ii. where the activity is:
    - A. an organised class without shared equipment which is supervised by at least one instructor, personal trainer or staff member; or
    - B. individual weight training, individual use of equipment or personal training where the ratio of instructors, trainers or staff to patrons is sufficient to ensure that any shared equipment is cleaned between each user; and
  - iii. it asks for a first name and contact phone number (for contact tracing purposes) of each person who attends and, if provided, keeps a record of those details and the date and time at which the person attended; and
  - iv. it develops a **COVID-19 Safety Plan** to which it must adhere, and which it must produce when requested by an **authorised person**;
- g. circuit training sessions at a gym, health club or fitness centre;
- h. a centre that provides yoga, barre or spin facilities, but not:
  - i. to the extent that it involves **gatherings** of no more than 20 people (excluding the instructors and staff on duty) and where social distancing of 1 person per 4 square metres is observed; and
  - ii. where all activities are supervised by staff (whether for classes or individual equipment use or one-on-one personal training); and
  - iii. it asks for a first name and contact phone number (for contact tracing purposes) of each person who attends and, if provided, keeps a record of those details and the date and time at which the person attended; and
  - iv. it develops a **COVID-19 Safety Plan** to which it must adhere, and which it must produce when requested by an **authorised person**;
- i. a bootcamp or personal trainer, but not:
  - i. to the extent that it involves outdoor activities for groups of no more than 20 people (excluding the trainer) and where social distancing of 1 person per 4 square metres is observed; and
  - ii. it asks for a first name and contact phone number (for contact tracing purposes) of each person who attends and, if provided, keeps a record of those details and the date and time at which the person attended; and
  - iii. it develops a **COVID-19 Safety Plan** to which it must adhere, and which it must produce when requested by an **authorised person**;

- j. an **organised sporting activity**, but not:
  - i. to the extent that it involves indoor or outdoor activities for **gatherings** of no more than 20 people (excluding officials such as referees) and no more than 1 parent, guardian or carer in addition to each person engaged in the activity, and where social distancing of 1 person per 4 square metres is observed;
- k. a swimming pool, but not to the extent that it is used:
  - i. as a **hydrotherapy pool** for therapeutic purposes by people receiving the therapy and no more than 1 parent, guardian or carer in addition to each person receiving the therapy (who may be in the pool with the person receiving the therapy if required), and otherwise where social distancing of 1 person per 4 square metres is observed; or
  - ii. by **gatherings** of no more than 20 swimmers with a maximum of 2 swimmers per lane, and no more than 1 parent, guardian or carer in addition to each swimmer, where social distancing of 1 person per 4 square metres is observed; and
  - iii. it develops a **COVID-19 Safety Plan** to which it must adhere, and which it must produce when requested by an **authorised person**;
- l. a community centre or facility or a youth centre or facility, but not:
  - i. to the extent that the centre or facility hosts essential voluntary or public services, such as food banks or services for those experiencing homelessness; or
  - ii. to the extent that the centre or facility hosts essential services for vulnerable children and families, or for young people at risk of homelessness or engagement with the youth justice system; or
  - iii. to the extent that it allows **gatherings** of no more than 20 people and where social distancing of 1 person per 4 square metres is observed;
- m. a **place of worship**, other than for the purposes of a **wedding, funeral or religious ceremony**, but not:
  - i. if it involves a **gathering** of no more than 20 people and where social distancing of 1 person per 4 square metres is observed; and
  - ii. it provides a visitor book in which attendees can voluntarily enter their first name and contact phone number if they choose;
- n. a library, but not:
  - i. where social distancing of 1 person per 4 square metres is observed; and
  - ii. it develops a **COVID-19 Safety Plan** to which it must adhere, and which it must produce when requested by an **authorised person**; and
  - iii. a group for any particular organised activity at the premises does not exceed more than 20 people (excluding necessary personnel to facilitate the activity);

*Example: A book-reading of up to 20 people can occur in addition to other library users, provided the premises are sufficiently large to enable social distancing.*



- o. a gallery, museum, national institution or historic site, but not:
  - i. where social distancing of 1 person per 4 square metres is observed; and
  - ii. it develops a **COVID-19 Safety Plan** to which it must adhere, and which it must produce when requested by an **authorised person**; and
  - iii. a group for any particular organised activity at the premises does not exceed more than 20 people (excluding necessary personnel to facilitate the activity);
- p. an outdoor amusement park, but not:
  - i. where social distancing of 1 person per 4 square metres is observed; and
  - ii. it develops a **COVID-19 Safety Plan** to which it must adhere, and which it must produce when requested by an **authorised person**; and
  - iii. a group for any particular organised activity at the premises does not exceed more than 20 people (excluding necessary personnel to facilitate the activity);
- q. a cinema, indoor or outdoor play centre, an arcade, or an entertainment venue not otherwise specified within this Direction;
- r. a concert venue, theatre, arena or auditorium, but not:
  - i. to the extent that it provides live streaming of a performance in the venue with a **gathering** of no more than 20 people involved in performing and facilitating the performance and where social distancing of 1 person per 4 square metres is observed; or
  - ii. to the extent that it allows rehearsals with a **gathering** of no more than 20 people involved in performing and facilitating the rehearsal and where social distancing of 1 person per 4 square metres is observed; and
  - iii. it develops a **COVID-19 Safety Plan** to which it must adhere, and which it must produce when requested by an **authorised person**;
- s. a hairdresser or barber, but not to the extent:
  - i. that social distancing of 1 person per 4 square metres is observed; and
  - ii. it asks for a first name and contact phone number (for contact tracing purposes) of each person who attends and, if provided, keeps a record of those details and the date and time at which the person attended; and
  - iii. it develops a **COVID-19 Safety Plan** to which it must adhere, and which it must produce when requested by an **authorised person**;
- t. a nail salon, but not:
  - i. to the extent that it involves a **gathering** of no more than 20 people and where social distancing of 1 person per 4 square metres is observed; and
  - ii. it asks for a first name and contact phone number (for contact tracing purposes) of each person who attends and, if provided, keeps a record of those details and the date and time at which the person attended; and
  - iii. it develops a **COVID-19 Safety Plan** to which it must adhere, and which it must produce when requested by an **authorised person**;



- u. a tattoo or body modification studio, but not:
  - i. to the extent that it involves a **gathering** of no more than 20 people and where social distancing of 1 person per 4 square metres is observed; and
  - ii. it asks for a first name and contact phone number (for contact tracing purposes) of each person who attends and, if provided, keeps a record of those details and the date and time at which the person attended; and
  - iii. it develops a **COVID-19 Safety Plan** to which it must adhere, and which it must produce when requested by an **authorised person**;
  
- v. a place that provides beauty therapy, tanning or waxing services, but not:
  - i. cosmetic services provided by a health practitioner registered by the Australian Health Practitioner Regulation Agency; or
  - ii. to the extent that:
    - A. it involves a **gathering** of no more than 20 people and where social distancing of 1 person per 4 square metres is observed; and
    - B. it asks for a first name and contact phone number (for contact tracing purposes) of each person who attends and, if provided, keeps a record of those details and the date and time at which the person attended; and
    - C. it develops a **COVID-19 Safety Plan** to which it must adhere, and which it must produce when requested by an **authorised person**;
  
- w. a day spa or a place that provides massage services, but not:
  - i. massage services provided by or for allied health services, such as remedial, sports, and lymphatic massage; or
  - ii. to the extent that:
    - A. it involves a **gathering** of no more than 20 people and where social distancing of 1 person per 4 square metres is observed; and
    - B. it asks for a first name and contact phone number (for contact tracing purposes) of each person who attends and, if provided, keeps a record of those details and the date and time at which the person attended; and
    - C. it develops a **COVID-19 Safety Plan** to which it must adhere, and which it must produce when requested by an **authorised person**;
  
- x. steam based services (including saunas, steam rooms, steam cabinets and bathhouses);
  
- y. an auction house but not to the extent;
  - i. that it involves a **gathering** of no more than 20 people and where social distancing of 1 person per 4 square metres is observed; and
  - ii. it asks for a first name and contact phone number (for contact tracing purposes) of each person who attends and, if provided, keeps a record of those details and the date and time at which the person attended; and
  - iii. it develops a **COVID-19 Safety Plan** to which it must adhere, and which it must produce when requested by an **authorised person**;



- z. a real estate auction, display home or an open house inspection, but not to the extent that:
    - i. it involves a **gathering** of no more than 20 people (excluding necessary real estate personnel) and where social distancing of 1 person per 4 square metres is observed; and
    - ii. it asks for a first name and contact phone number (for contact tracing purposes) of each person who attends and, if provided, keeps a record of those details and the date and time at which the person attended; and
    - iii. it develops a **COVID-19 Safety Plan** to which it must adhere, and which it must produce when requested by an **authorised person**;
  - aa. a strip club, brothel or an escort agency;
  - bb. a nightclub;
22. A **COVID-19 Safety Plan** means a plan:
- i. in writing that addresses how the business or undertaking will manage its operations to minimise the risks posed to any person by **COVID-19** because of the operation of the business or undertaking; and
  - ii. developed with regard to published guidance material endorsed by the Chief Health Officer.
23. An **authorised person** means an authorised person under section 121 of the *Public Health Act 1997*.
24. **Casino** has the same meaning as in the *Casino Control Act 2006*.
25. **Hydrotherapy pool** means a heated swimming pool (heated to 33 to 36 degrees Celsius) for use by people receiving hydrotherapy, who use the pool to undergo that therapy either on their own or with assistance from another person.
26. **Place of worship** means a building or place used for the purpose of religious worship by a congregation or religious group, whether or not the building or place is also used for counselling, social events, instruction or religious training.
27. **Wedding** means a wedding attended by a **gathering** of no more than 20 people (excluding the celebrant and professional wedding photographer), where social distancing of 1 person per 4 square metres is observed, and:
- i. at which attendees are asked for a first name and contact phone number (for contact tracing purposes) and, if provided, the organiser keeps a record of those details and the date and time at which the person attended; and
  - ii. it develops a **COVID Safety Plan** to which it must adhere, and which it must produce when requested by an **authorised person**.



28. **Funeral** means a funeral attended by a **gathering** no more than 50 mourners (excluding the officiant and funeral industry staff), where social distancing of 1 person per 4 square metres is observed and:
- i. at which attendees are asked for a first name and contact phone number (for contact tracing purposes) and, if provided, the organiser keeps a record of those details and the date and time at which the person attended; and
  - ii. it develops a **COVID Safety Plan** to which it must adhere, and which it must produce when requested by an **authorised person**.
29. **Religious ceremony** means a religious ceremony attended by a **gathering** of no more than 20 people (excluding the person conducting the ceremony and the minimum number of people necessary to support that person) and where social distancing of 1 person per 4 square metres is observed and where it provides a visitor book in which attendees can voluntarily enter their first name and contact phone number if they choose.
30. **Organised sporting activity** means sporting activities arranged through peak sporting organisations, community clubs, commercial providers or individual activities, and includes dance activities, but does not include professional sport.

#### Note

31. All businesses or undertakings that continue to operate must comply with Part 2 of these directions.
32. If there is any inconsistency between this Direction and any of the Directions specified below, those Directions are inoperative to the extent of any inconsistency:
- a. the *Public Health (Self-Isolation) Emergency Direction 2020* (NI2020-177);
  - b. the *Public Health (Returned Travellers) Emergency Direction 2020* (NI2020-164);
  - and
  - c. the *Public Health (Returned Travellers) Emergency Direction 2020 (No 4)* (NI2020-269).
33. Pursuant to section 119(4B) of the *Public Health Act 1997* the Chief Health Officer is to advise the Minister every 30 days about the status of the emergency and whether the Chief Health Officer considers the declared emergency is still justified.

## 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).

.....  
**Dr Kerry Coleman**  
Chief Health Officer

3 June 2020

## ATTACHMENT A

### ***Risk Mitigation Guidance***

It is suggested that, as far as practicable, the following risk mitigation measures be applied to gatherings of 2 people or more:

- In a given occupied space, there be a density of no more than one person per 4 square metres of floor space (taking into account objects and items that may impact the total free space);

*Example: if an indoor space is 8.5 metres long and 4.5 metres wide, its total area is 38.25 square metres. Its density quotient is 9.56, so no more than 9 people would be permitted to be in the indoor space at the same time.*

- Hand hygiene products and suitable waste receptacles should be available, to allow for frequent cleaning and waste disposal;
- The recommendations for unwell individuals to isolate at home and not attend published by the Commonwealth Department of Health should be promoted and displayed prominently so that they can be seen and read easily by a person at or near an entrance to the **indoor space**;
- For settings where there is ongoing movement and an increased number of interactions between people (for example food markets) and an individual's attendance is not in the course of their employment at the place, an individual's attendance should be less than 2 hours duration;
- Wherever possible, physical contact should be avoided; and
- Where activities involve the use of equipment, that equipment should be regularly cleaned and, where practicable, not be shared by people other than members of the same **household**.

The Chief Health Officer may publish guidance material about how to prepare a **COVID-19 Safety Plan**. This material can be accessed at [www.covid19.act.gov.au](http://www.covid19.act.gov.au).

#### Accessibility

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