

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)

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 Kerry 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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