

Australian Capital Territory

Public Health (Returned Travellers) Emergency Direction 2021 (No 5)

Notifiable Instrument NI2021–709

made under the

Public Health Act 1997, s 120 (Emergency actions and directions)

1. Name of instrument

This instrument is the *Public Health (Returned Travellers) Emergency Direction 2021 (No 5)**.

2. Commencement

This instrument commences at 11:59pm on 30 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 (Returned Travellers) Emergency Direction 2021 (No 4)* [NI2021-698].

Dr Kerryn Coleman
Chief Health Officer

30 November 2021

*Name amended under Legislation Act, s 60



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 require persons travelling from overseas to either quarantine or be tested for COVID-19, depending on whether or not the person has been fully vaccinated, in order to limit the spread of coronavirus disease 2019 (**COVID-19**), caused by the novel coronavirus SARS-CoV-2.

Following the identification of the new **COVID-19** variant B.1.1.529 (Omicron), this Direction seeks to implement additional quarantine requirements for returned overseas travellers until further assessment of the transmissibility, severity of the disease and effect of existing vaccines is undertaken, with a view to seeking to protect the ACT community from any additional public health risks that could be posed by the new variant.

Grounds for directions

I consider the directions are necessary or desirable to alleviate the **COVID-19** emergency on the grounds that—

- a. **COVID-19** poses a serious public health risk to the Australian Capital Territory community;
- b. it is important to limit the spread of **COVID-19** in the Australian Capital Territory community.

In making this Direction, I have had regard to relevant human rights and I am satisfied that the limitations imposed as a result of this Direction 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 – PERSONS WHO ARE FULLY VACCINATED

Directions

1. This Part applies to a person who:
 - a. is **fully vaccinated**; and



- b. either:
 - i. enters the Australian Capital Territory directly following a flight that originated from a place outside Australia; or
 - ii. enters the Australian Capital Territory within 14 days after arriving in Australia (at a place outside the Australian Capital Territory) following a flight that originated from a place outside Australia.
2. A person who arrived in Australia on or before 11:59pm on 27 November 2021 must:
 - a. be **tested for COVID-19** within 24 hours of arrival in Australia;
 - b. be **tested for COVID-19** on day 6 after their arrival in Australia; and
 - c. comply with any Guidelines for **fully vaccinated** travellers as issued by ACT Health and published on the ACT COVID-19 website.
3. A person who arrives into Australia after 11:59pm on 27 November 2021 must:
 - a. on arrival in the Australian Capital Territory travel immediately to **designated premises** to undertake a **special quarantine period**; and
 - b. not leave the **designated premises** other than in an emergency or for the purpose of being **tested for COVID-19**; and
 - c. not permit any other person who does not reside at the **designated premises** to enter the premises, unless for medical, law enforcement or emergency purposes; and
 - d. complete a **self-declaration form** within 24 hours prior to arrival into the Australian Capital Territory; and
 - e. be **tested for COVID-19**:
 - i. within 24 hours of arrival into Australia; and
 - ii. on day 6 after their arrival into Australia; and
 - f. not attend a **high risk setting** for 14 days after arriving in Australia, except as permitted under Paragraph 3c).
4. At the end of the **special quarantine period**, a person must remain in quarantine for an additional period (not longer than the **supplementary quarantine period**) unless:
 - a. the person is **tested for COVID-19** in accordance with paragraph 3e(i) and returns a negative result; or
 - b. the person is **tested for COVID-19** anytime during the **supplementary quarantine period** and returns a negative result; or
 - c. the person is given clearance from quarantine by an **authorised medical officer**.
5. Paragraphs 3a, 3b, 3c and 3d do not apply if the person has undergone an unbroken period of quarantine in another Australian State or the Northern Territory prior to entering the Australian Capital Territory.



6. If a person to whom this Part cannot maintain appropriate separation from members of a **household** whilst complying with Paragraph 3, the **household** must comply with all of the requirements in Paragraph 3 with the relevant person, other than the requirements in Paragraphs 3d and 3e.

Note: Guidance on what constitutes appropriate separation between a person and their household is available at <https://www.covid19.act.gov.au/stay-safe-and-healthy/quarantine/quarantine-if-youve-returned-from-overseas>

7. The **household** of a person to whom this Part applies must complete any additional period of quarantine that the relevant person completes in accordance with Paragraph 4.

PART 2 – PERSONS WHO ARE NOT FULLY VACCINATED AND WHO ENTER AUSTRALIA OUTSIDE OF THE AUSTRALIAN CAPITAL TERRITORY

Directions

8. This Part applies to a person who:
 - a. is not **fully vaccinated**; and
 - b. enters Australia (at a place outside the Australian Capital Territory) following a flight that originated from a place outside Australia.
9. A person must not enter the Australian Capital Territory unless the person has undergone an unbroken 14-day period of quarantine or self-isolation (however described) in an Australian State or the Northern Territory.

*Note: For **fully vaccinated** persons travelling with children aged between 12 and 17 years who are not **fully vaccinated** refer to the Guidelines for **fully vaccinated** travellers as issued by ACT Health and published on the ACT COVID-19 website.*

PART 3 – PERSONS WHO ARE NOT FULLY VACCINATED WHO ENTER THE AUSTRALIAN CAPITAL TERRITORY DIRECTLY FROM OVERSEAS

10. This Part applies to a person who:
 - a. is not **fully vaccinated**; and
 - b. enters the Australian Capital Territory directly following a flight that originated from a place outside Australia.
11. The person must:
 - a. on arrival in the Australian Capital Territory travel immediately to **designated premises** to undertake a **standard quarantine period**; and
 - b. not leave the **designated premises** other than in an emergency or for the purpose of being **tested for COVID-19**;
 - c. not permit any other person who does not reside at the **designated premises** to enter the premises, unless for medical, law enforcement or emergency purposes.



- g. be **tested for COVID-19**:
 - i. within 24 hours of arrival into Australia; and
 - ii. on day 6 after their arrival into Australia; and
 - iii. on day 12 or 13 after their arrival into Australia.
12. At the end of the **standard quarantine period** a person required to quarantine under this Part must remain in quarantine for an additional period (not longer than the **supplementary quarantine period**) unless:
- a. the person is **tested for COVID-19** in accordance with paragraph 11g(iii) and returns a negative result; and
 - b. the person is given clearance from quarantine by an **authorised medical officer**.
13. If the person is a child aged 12 to 17 years who is unaccompanied or travelling with a **fully vaccinated** parent, guardian, person with **parental responsibility** or **carer** of the child, then:
- a. the child must:
 - i. on arrival in the Australian Capital Territory travel immediately to **designated** premises to undertake the **quarantine period**; and
 - ii. not leave the **designated premises** other than in an emergency or to be **tested for COVID-19**; and
 - iii. at the end of the **child quarantine period**, a child must remain in quarantine for an additional period (not longer than the **supplementary quarantine period**) unless:
 - A. the child is **tested for COVID-19** no earlier than six days after the child entered the Australian Capital Territory and returns a negative result;
 - B. the child is **tested for COVID-19** anytime during the supplementary quarantine period; or
 - C. the child is given clearance from quarantine by an **authorised medical officer**.
 - b. a parent, guardian, person with **parental responsibility** or **carer** of the child must not permit:
 - i. the child to leave the **designated premises** other than in an emergency; and
 - ii. any other person who does not reside at the **designated premises** to enter the premises, unless for medical, law enforcement or emergency purposes.
14. This Part does not apply to a **diplomatic visa-holder**.



PART 4 — INTERNATIONAL FLIGHT CREW, AIR AMBULANCE AND MEDEVAC CREW

15. This Part applies to a member of an **international flight crew**, air ambulance and medevac crew who enters the Australian Capital Territory within 14 days following a flight that originated from a place outside Australia.

16. The member of the crew must:

- a. on arrival in the Australian Capital Territory travel immediately to **designated premises** to undertake a **special quarantine period** until the sooner of the following happens:
 - i. the quarantine period ends, or
 - ii. the member departs on another flight or series of flights leaving Australia; and
- b. not leave the premises, except:
 - i. for the purposes of obtaining medical care or medical supplies; or
 - ii. in any other emergency situation; or
 - iii. to be **tested for COVID-19**; and
- c. not permit any other person to enter the premises unless:
 - i. the other person usually resides at the premises; or
 - ii. the other person is also complying with Part 4 of this Direction for the same **special quarantine period**; or
 - iii. for medical, law enforcement or emergency purposes; and
- d. be **tested for COVID-19**:
 - i. within 24 hours of arrival in Australia; and
 - ii. on day 6 after arrival in Australia.

17. A person who is a member of an **international flight crew** or a member of an air ambulance or medevac crew must comply with any request by an **authorised person** to produce proof of identification.

18. The employer of an unvaccinated **international flight crew** member must:

- a. arrange approved transportation for the member to **designated premises**; and
- b. if the member does not have appropriate accommodation at designated premises, arrange for appropriate accommodation at **designated premises**; and
- c. if, before the **special quarantine period** ends, the member is departing the Australian Capital Territory on a flight, arrange approved transportation for the member to travel to the airport.



19. Any crew member operating in a professional capacity tasked to the aircraft cabin, the aircraft flight deck, or support crew (such as aircraft engineer, loading personnel or airport safety personnel) aboard a privately chartered international flight is subject to quarantine in accordance with this Direction.
20. At the end of the **special period of quarantine** a person required to quarantine under this Part must remain in quarantine for an additional period (not longer than the **supplementary quarantine period**) unless:
- a. the member departs on another flight that leaves Australia; or
 - b. the person is **tested for COVID-19** when requested by an **authorised person** and returns a negative test result; or
 - c. the person is **tested for COVID-19** during the **supplementary quarantine period** and returns a negative test result; or
 - d. the person is given clearance from quarantine by an **authorised medical officer**.

PART 5 — TRAVELLERS ENTERING AUSTRALIA FROM NOMINATED COUNTRIES

21. Notwithstanding anything provided in Parts 1,2,3 and 4 of this Direction, this Part will apply to a person who has been in any of the **nominated countries**.
22. If a person having been in any of the **nominated countries** in the last 14 days arrives in Australia on or after 28 November 2021, the person must quarantine at the port of entry.
23. If a person arrived in Australia prior to 28 November 2021 having been in any of the **nominated countries** in the last 14 days and is currently in the Australian Capital Territory the person must:
- a. travel immediately to **designated premises** to undertake quarantine until 14 days have passed since leaving any of the **nominated countries**; and
 - b. not leave the **designated premises** other than in an emergency or for the purpose of being **tested for COVID-19**; and
 - c. not permit any other person who does not reside at the **designated premises** to enter the premises, unless for medical, law enforcement or emergency purposes; and
 - d. be **tested for COVID-19**:
 - i. within 24 hours of arrival in Australia; and
 - ii. on day 6 after arrival in Australia; and
 - iii. on day 12 or 13 after arrival in Australia.



24. If a person is required to quarantine under Paragraph 23a. the entire **household** must also quarantine with the person.

PART 6 — EXEMPTIONS

25. 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.
26. 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.

PART 7 – MATTERS RELEVANT TO THESE DIRECTIONS

27. For the purposes of Parts 1, 2, 3, 4 and 5, the point at which a person arrives or enters into the Australian Capital Territory means:
- a. for travel by air – from the Canberra airport;
 - b. for travel by bus – from the bus station or other place where the person disembarks;
 - c. for travel by train – from the train station where the person disembarks;
 - d. for travel by car – from the point at which the car crosses the border from New South Wales into the Australian Capital Territory; and
 - e. by any other means – from the point at which the person crosses the border from New South Wales into the Australian Capital Territory.

Enforcement

28. An **authorised person** may ask a person arriving at or in the Australian Capital Territory for any information necessary to determine whether the person is subject to this Direction.
29. Any person arriving at or in the Australian Capital Territory must comply with any request made under Paragraph 28 by an **authorised person**.
30. An **authorised person** may direct a person who is subject to this Direction to do such things as are reasonably necessary to comply with this Direction.
31. Any person subject to this Direction must comply with any request under Paragraph 30 by an **authorised person**.
32. 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 to produce proof of identification to the **authorised person**.
33. If a person fails to comply with any direction given under Paragraph 32, the **authorised person** may take all reasonable steps to enforce compliance with the direction.



Definitions

For the purposes of this Direction:

34. **ADF** means the Australian Defence Force.
35. **ADF international flight** means an international flight involving an ADF aircraft or commissioned flight.
36. **Authorised medical officer** means an authorised medical officer under the *Public Health Act 1997*.
37. **Authorised person** means an authorised person under section 121 of the *Public Health Act 1997* and includes an authorised medical officer under the *Public Health Act 1997*.
38. **Carer**, for the purposes of this Direction, includes an appropriate adult nominated by a person with **parental responsibility**.
39. **Child quarantine period** means a period of seven days ending at 11:59pm on the seventh (7th) day after arrival.
40. **COVID-19** means the coronavirus disease 2019, caused by the novel coronavirus SARS-CoV-2.
41. **COVID-19 vaccination** means a SARS-COV-2 (**COVID-19**) vaccine that is approved or recognised by the Australian Therapeutic Goods Administration.
42. Unless stated otherwise in writing by the Chief Health Officer, **designated premises** means:
 - a. for Part 1, Part 2 and Part 5 of this Direction:
 - i. the person's usual place of residence or other premises that is suitable for the purposes of self-isolation or quarantine; or
 - ii. if the person is not normally a resident of the Australian Capital Territory - a hotel or other premises that has been approved in writing by the Chief Health Officer or an authorised person for the purposes of self-isolation or quarantine; or
 - iii. a room allocated on check-in at any hotel, serviced-apartment, or similar accommodation approved in writing by the Chief Health Officer or an authorised person for the purposes of self-isolation or quarantine; or
 - iv. if the Chief Health Officer, in writing, states another place—the stated place.
 - b. for Part 3 of this Direction – premises approved in writing by the Chief Health Officer or an **authorised person** as suitable for quarantine purposes;
 - c. for Part 4 of this Direction - if the person is normally a resident of the Australian Capital Territory:
 - i. If the person can maintain appropriate separation from members of the household – their usual place of residence, or
 - ii. if the person cannot maintain appropriate separation from members of the household – a room allocated on check in at any hotel, serviced-apartment, or similar accommodation approved in writing by the Chief Health Officer or an **authorised person** for the purposes of quarantine.



- d. for Part 4 of this Direction - if the person is not a resident of the Australian Capital Territory:
- i. a room allocated on check in at any hotel, serviced-apartment, or similar accommodation approved in writing by the Chief Health Officer or an **authorised person** for the purposes of quarantine.
43. **Diplomatic visa-holder** means a person, such as a foreign official posted to Australia and member of their family, who have been issued with a diplomatic visa by the Commonwealth Department of Foreign Affairs and Trade.
44. **Fully vaccinated** means a person who, no later than seven days before entry to the Australian Capital Territory:
- a. has received the number of doses required for a complete course of a **COVID-19 vaccination**; or
 - b. has a **medical contraindication certificate** issued to the person;
 - c. has a **medical contraindication certificate** recorded on the Australian Immunisation Register that prevents the person from receiving a **COVID-19 vaccination**; or
 - d. a child that is under the age of 12 years and 2 months.
45. **High risk setting** has the same meaning as it does in the *Public Health (Diagnosed People and Close Contacts) Emergency Direction 2021 (No 7)*.
46. A **household** means people who ordinarily reside at the same residential premises.
47. **International Flight Crew** means any crew member operating in a professional capacity tasked to the aircraft cabin, the aircraft flight deck, or support crew (such as aircraft engineer, loading personnel or airport safety personnel) aboard a commercial international passenger or freight flight, or a privately chartered international flight, but does not include crew of an **ADF international flight** or crew aboard a privately chartered international flight.
48. **Medical contraindication certificate** means a certificate issued by a medical practitioner:
- a. provided in a form approved by the ACT Chief Health Officer certifying that because of a specified medical contraindication, the person to whom the certificate has been issued cannot have any available **COVID-19 vaccination**; or
 - b. provided in a form approved by another State or Territory Government certifying that because of a specified medical contraindication, the person to whom the certificate has been issued cannot have any available **COVID-19 vaccination**.

49. **Nominated countries** means any of the following countries:

- a. Botswana
- b. Eswatini
- c. Lesotho
- d. Malawi
- e. Mozambique
- f. Namibia
- g. South Africa
- h. Zimbabwe

50. **Parental responsibility** is as defined in section 15 of the *Children and Young People Act 2008*.

51. **Self-declaration form** means a form approved by the Chief Health Officer.

52. **Special quarantine period** means a period of 3 days ending at 11:59pm on the third (3rd) day after arrival in Australia.

Note: In working out the end of the special quarantine period, the day of arrival is not included meaning for example that a person who arrives in Canberra on 1 November 2021 would be required to quarantine until 11:59pm on 4 November 2021.

53. **Standard quarantine period** means a period of 14 days ending at 11:59pm on the fourteenth (14th) day after arrival in Australia.

Note: In working out the end of the standard quarantine period, the day of arrival is not included meaning for example that a person who arrives in Canberra on 1 November 2021 would be required to quarantine until 11:59pm on 15 November 2021.

54. **Supplementary quarantine period** means a period of 14 days commencing at the end of the **standard quarantine period** or **special quarantine period**.

55. **Tested for COVID-19** means a reverse transcription polymerase chain reaction test to detect **COVID-19**.

Guidance

1. If a person tests positive to COVID-19 while in the Australian Capital Territory, they must comply with the *Public Health (Diagnosed People and Close Contacts) Emergency Direction 2021 (No 5)*.
2. If a person who enters the Australian Capital Territory following a flight that originated outside Australia is a **diplomatic visa-holder**, risk mitigation guidance is provided by the Chief Health officer in the document titled 'Guidance on arriving into the ACT for holders of diplomatic visas (subclass 995 visas) and their dependents'.
3. Any crew member operating in a professional capacity tasked to the aircraft cabin, the aircraft flight deck, or support crew (such as aircraft engineer, loading personnel or airport safety personnel) aboard an **ADF international flight** is to quarantine in accordance with **ADF** quarantine policies.

Dr Kerryn Coleman
Chief Health Officer

30 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).

Accessibility

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