Minister for Health

Statement of Reasons

# Pandemic Order made 23 December 2021

On 23 December 2021, I Martin Foley, Minister for Health, made the following pandemic order under section 165AI of the *Public Health and Wellbeing Act 2008*:

|  |
| --- |
| Pandemic (Movement and Gathering) Order 2021 (No. 2)   |

In this document, I provide a statement of my reasons for the making the above pandemic order.  My statement of reasons for making the pandemic order consists of the general reasons in [1]-[48] and the additional reasons set out in the applicable schedule for the pandemic order.

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# About the pandemic orders

1. The pandemic orders were made under section 165AI of the *Public Health and Wellbeing Act 2008* (**PHW Act**).

## Statutory power to make pandemic orders

1. Under section 165AI of the PHW Act, I may, at any time on or after the making of a pandemic declaration by the Premier under s 165AB, make any order that I believe is reasonably necessary to protect public health. The Premier made a pandemic declaration on 10 December 2021, on the basis that he was satisfied on reasonable grounds that there is a serious risk to public health arising from COVID satisfied on reasonable grounds that there is a serious risk to public health throughout Victoria arising from the coronavirus (COVID-19) pandemic disease -19.
2. Pursuant to section 165AL(1), before making a pandemic order, I must request the advice of the Chief Health Officer in relation to the serious risk to public health posed by the disease specified in the pandemic declaration, and the public health measures that the Chief Health Officer considers are necessary or appropriate to address this risk.
3. On 22 December 2021, I requested the advice of the Chief Health Officer in relation to additional measures that could be put in place in response to the Omicron variant of concern. I received the Chief Health Officer’s advice on 23 December 2021, and a record of that advice is published with this document.
4. Under s 165AL(2), in making a pandemic order, I must have regard to the advice of the Chief Health Officer, and may have regard to any other matter that I consider relevant including, but not limited to, social and economic matters. I may also consult any other person that I consider appropriate before making a pandemic order. g

## Guiding principles

1. I have made this decision informed by the guiding principles in sections 5 to 10 of the PHW Act. I note that the Chief Health Officer also had regard to those principles when providing his advice.[[1]](#footnote-2)

### Principle of evidence-based decision-making

1. This principle is that decisions as to the most effective and efficient public health and wellbeing interventions should be based on evidence available in the circumstances that is relevant and reliable.[[2]](#footnote-3)
2. My decision to make the pandemic orders has been informed by the expert advice of the Chief Health Officer about the serious risk to public health posed by COVID-19 and the public health measures that the Chief Health Officer considers are necessary or appropriate to address this risk.

### Precautionary principle

1. This principle is that if a public health risk poses a serious threat, lack of full scientific certainty should not be used as a reason for postponing measures to prevent or control the public health risk.
2. COVID-19 is a serious risk to public health, and it would not be appropriate to defer action on the basis that complete information is not yet available. In such circumstances, as the PHW Act sets out, a lack of full scientific certainty is not a reason for postponing measures to prevent or control the public health risks associated with COVID-19.

### Principle of primacy of prevention

1. This principle is that the prevention of disease, illness, injury, disability or premature death is preferable to remedial measures.
2. Despite high vaccination coverage across Victoria, many situations involve a higher level of risk. These settings include indoor spaces and events where there are 30,000 or more attendees. Given the continuing risk of surging case numbers and outbreaks, particularly with a highly mobile population compared to lockdown periods, it is appropriate that the Victorian Government takes a cautious approach to manage risk in a targeted and efficient manner. This approach is supported by the principle of primacy of prevention in the Act.[[3]](#footnote-4)

### Principle of accountability

1. This principle is that persons who are engaged in the administration of this Act should as far as is practicable ensure that decisions are transparent, systematic and appropriate.
2. Consistent with this principle, members of the public should be given access to reliable information in appropriate forms to facilitate a good understanding of public health issues, as well as opportunities to participate in policy and program development.
3. To promote accountability in the making of pandemic orders, the Act requires that a copy or written record of the Chief Health Officer's advice, a statement of reasons, and a human rights statement are published in the case of the making, variation or extension of an order.
4. All the reasons I have made these orders and the advice that has informed those decisions, as well as the expert assessments of the potential human rights impacts of my decisions, have been published according to this principle.

### Principle of proportionality

1. The principle is that decisions made, and actions taken, in the administration of this Act should be proportionate to the risk sought to be prevented, minimised or controlled, and should not be made or taken in an arbitrary manner.
2. In deciding to make the pandemic orders, I am required to be satisfied that those orders are 'reasonably necessary' to protect public health, which requires consideration of the proportionality of those measures to the risk to public health.

### Principle of collaboration.

1. The principle of collaboration is that public health and wellbeing, in Victoria and at a national and international level, can be enhanced through collaboration between all levels of Government and industry, business, communities and individuals.
2. In preparing the pandemic orders, I consulted with the Acting Premier and my Coordinating Ministers Committee colleagues.
3. Throughout the pandemic, there has been ongoing consultation between the Deputy Chief Health Officers and the Chief Health Officers of the States and Territories, including through the Australian Health Protection Principal Committee.
4. Victoria continues to work with other jurisdictions through National Cabinet, to talk through plans for managing COVID-19. Victoria’s Roadmap: Delivering the National Plan aligned with vaccination targets set out in the *National Plan to transition Australia’s National COVID-19 Response*, as agreed by National Cabinet.

### Part 8A objectives

1. I have also had regard to the objectives of Part 8A in section 165A(1) of the PHW Act, which is to protect public health and wellbeing in Victoria by establishing a regulatory framework that:
	1. prevents and manages the serious risk to life, public health and wellbeing presented by the outbreak and spread of pandemics and diseases with pandemic potential;
	2. supports proactive and responsive decision-making for the purposes of preventing and managing the outbreak and spread of pandemics and diseases with pandemic potential; and
	3. ensures that decisions made and actions taken under Part 8A are informed by public health advice and other relevant information including, but not limited to, advice given by the Chief Health Officer; and
	4. promotes transparency and accountability in relation to decisions made and actions taken under Part 8A; and
	5. safeguards contact tracing information that is collected when a pandemic declaration is in force.

## Human Rights

1. Under s 165A(2) of the PHW Act, the Parliament has recognised the importance of protecting human rights in managing the serious risk to life, public health and wellbeing presented by the outbreak or spread of pandemics and diseases of pandemic potential.
2. In addition, in making each pandemic order, I have proceeded on the basis that I should give proper consideration to relevant human rights under the *Charter* *of Human Rights and Responsibilities* *2006* (Vic) (**Charter**). I therefore proceeded on the basis that, in making each order, I was required to take the following four steps:
	1. first, understand in general terms which human rights are relevant to the making of a pandemic order and whether, and if so how those rights would be interfered with by a pandemic order;
	2. second, seriously turn my mind to the possible impact of the decision on human rights and the implications for affected persons;
	3. third, identify countervailing interests or obligations in a practical and common-sense way; and
	4. fourth, balance competing private and public interests as part of the exercise of ‘justification’.
3. This statement of reasons must be read together with the Human Rights Statement.
4. I note also that in providing his advice, the Chief Health Officer had regard to the Charter.[[4]](#footnote-5)

# Overview of public health advice

# Current context

1. Victoria is currently experiencing an outbreak of the Delta and Omicron variants of concern of severe acute respiratory syndrome coronavirus 2, the virus which causes COVID-19. When making this pandemic order, I have had regard to the advice of the Chief Health Officer dated 23 December 2021, including current outbreak patterns, growth in case numbers, and vaccination rates.

## Immediate situation: Phase D Settings for continued management of the COVID-19 Pandemic according to the Victorian Roadmap to deliver the National Plan

1. As of 23 December 2021, 2,005 new cases locally acquired and have been reported to the Department of Health within the preceding 24 hours. The state seven-day local case growth rate to 23 December 2021 was 14.0 per cent.
2. As of 23 December 2021, Victoria has recorded a cumulative 151,577 total cases of COVID-19.
3. 10 COVID-related deaths were reported in 24 hours preceding 23 December 2021, bringing the total number of COVID-19 related deaths in Victoria to 1,476.
4. Within the past seven days to 22 December 2021, there has been no regional areas with unexpected wastewater detected reporting, one industry site with wastewater detections under active management for outbreak/exposure response and seven industry sites with unexpected wastewater detections meeting escalation thresholds.

*Test results*

1. Victorians had been tested at a rate of 15,741 per 100,000 people over the 14 days to 23 December 2021.

*Vaccinations*

1. As at 23 December 2021:
	1. a total of 5,008,438 doses have been administered through the State’s vaccination program, contributing to a total of 11,123,919 doses administered in Victoria.
	2. 92.7 per cent of Victorians over the age of 12 have been fully vaccinated.
	3. 94.4 per cent of Victorian over the age of 12 have been partially vaccinated.

*The current global situation*

1. The following situation update and data have been taken from the World Health Organisation, published 21 December 2021.

|  |  |
| --- | --- |
| **Statistic** |  |
| Global confirmed cumulative cases of COVID-19 | Over 273 million |
| Global cumulative deaths | Over 5.3 million |
| Global trend in new weekly cases | Steady: 2% decrease compared to the previous week |
| Global regions reporting the highest weekly case incidence per 100 000 population | * European Region (279.9 per 100 000 population)
* Region of the Americas (88.5 per 100 000 population)
 |
| Global regions reporting the highest weekly incidence in deaths | * European Region (2.9 per 100 000 population)
* Region of the Americas (1.0 per 100 000 population)
 |
| The highest numbers of new cases by country: | * United States of America (725,750 new cases; 12% decrease)
* the United Kingdom (507,984 new cases; 45% increase)
* France (335 972 new cases; 7% increase)
* Germany (283,673 new cases; 19% decrease)
 |

Sources: World Health Organisation published 21 December 2021, WHO COVID-19 Weekly Epidemiology Update

# Reasons for decision to make pandemic orders

## Overview

1. Protecting public health and wellbeing in Victoria from the risks posed by the COVID-19 pandemic is of primary importance when I am deciding whether or not to issue pandemic orders. This is a priority supported by the PHW Act.
2. Section 165AL(2)(a) of the Act requires me to have regard to the advice of the Chief Health Officer, and I confirm that I have done so. That advice includes public measures that the Chief Health Officer recommends or considers reasonable.
3. Section 165AL(2)(b) permits me to have regard to any other matter I consider relevant, including (but not limited to) social and economic factors. Section 165AL(3) permits me to consult with any other person I consider appropriate before making pandemic orders.
4. In making the decision to issue a new Pandemic (Movement and Gathering) Order, I have had regard to current, detailed health advice. On the basis of that health advice, I believe that it is reasonably necessary for me to make a new order to protect public health.[[5]](#footnote-6) In assessing what is 'reasonably necessary', I have had regard to Gleeson CJ's observation in *Thomas v Mowbray* (2007) 233 CLR 307 at [22] that *“the [decision-maker] has to consider whether the relevant obligation, prohibition or restriction imposes a greater degree of restraint than the reasonable protection of the public requires”*.
5. The new Pandemic (Movement and Gathering) Order I have made recognises that, although more than 92 per cent of the Victoria population aged 12 and above are fully vaccinated, other measures are still required to control the spread of COVID-19. It is still necessary to maintain safeguards to control the rate at which COVID-19 can spread given high levels of community transmission are still evident.[[6]](#footnote-7)
6. The measures that I recommend are necessary and appropriate to manage the risk that COVID-19 presents, especially in light of the need to gather more information and evidence about the Omicron variant of concern; the potential waning of vaccine-induced immunity and the need for ‘booster’ vaccination; and how effectively similar public health measures appear to be in containing COVID-19 in Northern Hemisphere countries as they enter winter.[[7]](#footnote-8)
7. The correlation between the imposition of an immediate and strong public health response and case numbers has been evidenced not only in Australia but across the world. Although restrictions have been successful in preventing the significant numbers of deaths predicted by modelling in the absence of intervention, there is a clear link between unrestricted movement in the community, growth in case numbers, and the resulting number of deaths.[[8]](#footnote-9)
8. Having had regard to the advice of the Chief Health Officer and after having consulted with the Acting Premier and my Coordinating Ministers Committee colleagues, it is my view that making a new Pandemic (Movement and Gathering) Order is reasonably necessary to reduce the risk that COVID-19 poses by:
	1. Improving Victorians’ understanding of COVID-19 can be transmitted, and the actions that they can take to reduce the risk of transmission.
	2. Requiring individuals aged 8 years and over to wear a face covering in indoor settings and events where there are more than 30,000 patrons, as the risk of transmission is greater in these contexts.
9. The Chief Health Officer has advised:
	1. Face masks be required for those aged 8 years and over for all indoor settings outside the individual’s place of residence. This should include – but not be limited to – workplaces, education settings, indoor events, entertainment venues, hospitality venues (except when eating or drinking) and public transport. Previous mask exceptions should continue to apply, particularly for those who have medical reasons not to wear a face mask.[[9]](#footnote-10)
	2. Requiring face masks for all staff and all patrons aged 8 years and above for indoor public events and some specific outdoor public events where high numbers of patrons are attending and crowding is expected. Existing exceptions to face mask use, including for when people are eating or drinking, will continue to be in place.[[10]](#footnote-11)
	3. Rapidly escalate current public education and communication efforts:
		1. To warn the Victorian community about the risks that Omicron poses.[[11]](#footnote-12)
		2. Knowledge about how to perform a rapid antigen test (and that Victorians should obtain a negative result prior to attending social gatherings, public venues and any sensitive settings such as hospitals or aged care facilities) will better equip Victorians to protect themselves and to limit the unintentional spread to loved ones or those who could be particularly vulnerable to infection.[[12]](#footnote-13)
		3. Support the wearing of face masks. [[13]](#footnote-14)
	4. Further restrictions on numbers of visitors to hospitals and care facilities – noting these are already very limited and many facilities apply more stringent rules regarding visitation than the Pandemic Orders require.[[14]](#footnote-15)
	5. The role of rapid antigen (RA) testing be urgently expanded in Victoria. To ensure RA tests are accessible for all and can be used where they will provide most benefit, I advise that the Victorian government introduce either fully or partially subsidised RA test kits that can be accessed by the general public.[[15]](#footnote-16)
	6. For all major events in Victoria, the Minister should consider whether all staff and patrons should undertake a self-administered RA test prior to attendance. In order to avoid congregation of patrons at entry points to venues, RA testing should be undertaken at home but as close as possible to the event in order to maximise their sensitivity.[[16]](#footnote-17)
	7. Visitors to hospitals and care facilities be required to undertake a self-administered RA test prior to their visit, bring the test to the facility for examination by the entry monitors, and then discarded on site.[[17]](#footnote-18)
	8. Depending on the availability of RA testing, aspects of the TTIQ approach should be revised to better support the case, contact and outbreak management strategy from the likely impacts of Omicron on capacity and resourcing. Immediately foreseeable changes are:
		1. Testing requirements could transition from PCR testing to RA testing for contacts, in order to preserve PCR testing capacity for those with a higher pre-test probability, such as symptomatic individuals. Repeated RA testing further improves accuracy as a screening modality.
		2. Acknowledging a greater responsibility on individuals to test the infectiousness themselves, and potentially also having cases notify their contacts. [[18]](#footnote-19)
	9. Reintroducing requirements for all hospitality and entertainment venues to apply density limits in indoors areas (only), with an allowance of 1 person per 2 square metres. [[19]](#footnote-20)
	10. Seated service should also be considered for reinstatement at indoor settings in hospitality and entertainment venues, including food and drink premises, pubs, nightclubs, live music, cafes, restaurants, karaoke venues and similar premises.[[20]](#footnote-21)
	11. Preventing the use of indoor dance floors at hospitality venues.[[21]](#footnote-22)
	12. I accept the Chief Health Officer’s advice. However, I have decided that mandating face coverings for all indoor settings and for events with 30,000 or more patrons to be the only measure for the pandemic orders. All other measures recommended in the Chief Health Officer’s advice either do not require pandemic orders to implement, or should be ‘strongly recommended’ rather than mandated.
10. I considered some of the range of measures in the CHO advice to be ‘strongly recommended’ instead of being mandated through the pandemic orders because:
	1. Social acceptance of public health measures is a considerable factor in community compliance and self- regulation. According to Victorian population surveys on COVID-19 related behaviours and attitudes, face masks have been widely adopted by most members of the community.[[22]](#footnote-23)
	2. The Chief Health Officer acknowledges that some measures will impose a greater burden on Victorians than others, and that I would have to weigh the degree to which each measure impacts on public confidence in, and goodwill towards the administration of public health.[[23]](#footnote-24).
	3. Compliance with these restrictions – as with all public health measures – is largely dependent upon ongoing community goodwill. These measures’ effectiveness depends on this goodwill (and the improvements in compliance and prosocial behaviour that such goodwill brings). It is important to balance the burden that these measures place on Victorians and the effect that such measures have on goodwill.[[24]](#footnote-25)
	4. The effectiveness of these measures depends on this goodwill (and the improvements in compliance and prosocial behaviour that such goodwill brings). Therefore, it is important to balance the burden that these measures place on Victorians – especially so close to Christmas - and the effect that such measures have on goodwill.[[25]](#footnote-26)
	5. The reintroduction of restrictions in food and drink venues would adversely affect businesses, families and workers, harming the social licence of public health measures, reduce compliance and potentially undermine confidence in the public health response. Changes to the requirements in this area of community activity will need to be carefully monitored and weighed against the public health risks and benefits as they arise.
	6. Public health measures and restrictions should align with other Australian jurisdictions where possible, providing the Victorian community and travellers with consistency and certainty.
	7. The economic impacts may be even more acute, given that the public health measures contained in the CHO advice would be in place during a peak trading period and after sustained public health measures have severely limited the ability to trade.
	8. Implementing a large-scale change prior to the Christmas period will likely contribute to community fatigue and distress, which is particularly important given restrictions that have been in place over the last 20 months, resulting in social isolation. Recognising the social and religious significance of this period, and the planned and much-anticipated social gatherings, implementing a large scale change would create unexpected disruption, compounding the psychosocial impacts already experienced by the Victorian community.
	9. The Chief Health Officer also advised that given the challenges of logistics and the uncertain timeframe, I may wish to take a staged approach to consider employing the measures set out above[[26]](#footnote-27). That these restrictions could be implemented in a phased manner, contingent upon case numbers and hospitalisation.[[27]](#footnote-28)
	10. The Department of Jobs, Precincts and Regions has provided estimates on impacts of proposed restrictions on hospitality and events: Applying a density quotient to indoor hospitality and closing dancefloors, if adopted, could have severe immediate and long-term economic impact on Victoria’s economic recovery and the economic wellbeing of Victorians. The economic benefits of the Boxing Day Test could be diminished if an indoor density quotient of one person per two square metres was introduced.

## Risks of no action taken

1. Given all the above, if pandemic management measures had not been introduced and maintained in Victoria since early in the pandemic, the likely impact of COVID-19, particularly for older people, people with certain chronic medical conditions and other vulnerable groups would have been far greater. In turn, an even more significant pressure would have been (and still could be) placed on the Victorian health system, to respond at a scale that has little precedent in the modern era. As Taylor and colleagues (2021) note:
2. “If Australia had experienced the same crude case and death rates as three comparable countries - Canada, Sweden and the United Kingdom - there would have been between 680,000 and 2 million cases instead of the 28,500 that did occur [during 2020], and between 15 and 46 times the number of deaths.”[[28]](#footnote-29)

## Schedules

1. The specific Reasons for Decision for making a new Pandemic (Movement and Gathering) Order are set out in the Schedules.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**The Hon. Martin Foley**

Minister for Health

23 December 2021

# Schedule 1 – Reasons for Decision – Pandemic (Movement and Gathering) Order

## Summary of Order

1. This Order requires individuals to carry and wear face coverings in certain settings; requires organisers of ceremonies not to permit individuals who are unvaccinated to perform work at the ceremony space, subject to some exceptions; and requires workers not to perform work outside of their ordinary place of residence where they are not permitted to do so by their employer under:
	* 1. the Open Premises Order; or
		2. the COVID-19 Mandatory Vaccination (Specified Workers) Order; or
		3. the COVID-19 Mandatory Vaccination (Specified Facilities) Order; or
		4. the COVID-19 Mandatory Vaccination (General Workers) Order.

### Purpose

1. The objective of this Order is to reduce the spread of COVID-19 in Victoria in indoor settings; and to impose obligations upon organisers of ceremonies in relation to the vaccination of workers at ceremony spaces; and to impose obligations on workers to be vaccinated to perform work outside of their home, in order to limit the spread of COVID-19 within the population of those workers.

*Obligations*

1. This Order requires individuals to take certain actions to reduce the risk of harm caused by COVID-19 by:
	1. carrying a face covering at all times (unless an exception applies)
	2. wearing a face covering in the following settings (unless an exception applies):
		1. While in an indoor space;
		2. While attending an event with 30,000 or more patrons in attendance, unless the person is seated outdoors at the event;
		3. when visiting a hospital;
		4. when visiting a care facility;
		5. on public transport or in a Commercial passenger vehicle or licensed tourism operator vehicle;
		6. if a diagnosed person or close contact and leaving the premises;
		7. after being tested for COVID-19 and awaiting results, other than as part of surveillance testing; and
		8. wherever required to do so in accordance with any other pandemic orders in force.
	3. The Chief Health Officer recommended the following exceptions to the requirement that a person wear a face mask in the settings enumerated above:[[29]](#footnote-30)
		1. the person is an infant or a child under the age of 8 years except if they are a student in Year 3 to 6 and they are in an indoor space at a primary school
		2. the person is attending a private residence, unless that person is attending an inspection of real estate for the purposes of a prospective sale or rental of the property or attending an auction;
		3. the person is a prisoner in a prison
		4. the person is detained in a remand centre, youth residential centre or youth justice centre
		5. the person has a physical or mental health illness or condition, or disability, which makes wearing a face covering unsuitable
		6. it is not practicable for the person because the person is escaping harm or the risk of harm, including harm relating to family violence or violence of another person
		7. the person is communicating with a person who is deaf or hard of hearing and visibility of the mouth is essential for communication
		8. the nature of a person’s work or education means that wearing a face covering creates a risk to their health and safety
		9. the nature of a person’s work or education means that clear enunciation or visibility of the mouth is essential
		10. the person is working by themselves in an enclosed indoor space (unless and until another person enters that indoor space)
		11. the person is one of two persons being married, during their wedding ceremony, or while being photographed at the wedding
		12. the person is a professional sportsperson when training or competing
		13. the person is engaged in any strenuous physical exercise
		14. the person is riding a bicycle or a motorcycle
		15. the person is consuming medicine, food or drink
		16. the person is smoking or vaping (including e-cigarettes) while stationary
		17. the person is undergoing dental or medical care or treatment to the extent that such care or treatment requires that no face covering be worn
		18. the person is receiving a service and it is not reasonably practicable to receive that service wearing a face covering
		19. the person is providing a service and it is not reasonably practicable to provide that service wearing a face covering
		20. the person is an accused person in a criminal case in any court located in the State of Victoria and the person is in the dock either alone or with a co-accused, provided that any co-accused also present in the dock is at least 1.5 metres away from the person
		21. the person is asked to remove the face covering to ascertain identity
		22. for emergency purposes
		23. when required or authorised by law
		24. when doing so is not safe in all the circumstances.
2. Face masks are required to be carried at all times by individuals aged 8 years and over, with limited exceptions, as these individuals must be prepared to wear masks in settings where the use of masks is required.
3. The Order requires workers not to perform work outside their ordinary place of residence if their employer is not permitted to allow them to do so under:
	1. the Open Premises Order; or
	2. the COVID-19 Mandatory Vaccination (Specified Workers) Order; or
	3. the COVID-19 Mandatory Vaccination (Specified Facilities) Order; or
	4. the COVID-19 Mandatory Vaccination (General Workers) Order.
4. The Order requires organisers of a ceremony to:
	1. collect, record and hold vaccination information of workers at the ceremonial space; and
	2. not permit a person to work at the ceremonial space unless they are:
		1. fully vaccinated,
		2. an excepted person, or
		3. a person who conducts services of public worship; performs marriages, funerals and special memorial services according to tradition and ecclesiastical and civil law, or provides end of life faith visits to members of the community in their homes and hospitals.
5. Failure to comply with this Order may result in penalties.

### Changes from Pandemic (Movement and Gathering) Order 2021 (No. 1)

1. Amending face covering requirements to include that a person must also wear a face covering:
	1. while in an indoor space;
	2. while at an event with 30,000 or more attendees, unless the person is seated outdoors at the event.
2. Amending the exceptions to face covering requirement to apply to:
	1. an infant or child under the age of 8 years (noting that this was previously 12 years) except if they are a student in Years 3 to 6 and they are in an indoor space at a primary school;
	2. a person attending a private residence, unless attending a real estate inspection or auction;
	3. a person who is one of two persons being married, during their wedding ceremony, or while being photographed at the wedding.

### Period

1. This Order will commence at 11:59:00pm on 23 December 2021 and end at 11:59:00pm on 12 January 2022.

## Relevant human rights

### Human rights that are limited

1. For the purposes of section 165AP(2)(c), in my opinion, the obligations imposed by the order will limit the human rights identified in paragraph 49 of the Human Rights Statement.
2. My explanation for why those rights are limited by the Order is set out in the Human Rights Statement.
3. The Human Rights Statement also sets out:
	1. my explanation of the nature of the human rights limited (as required by section 165AP(2)(i)); and
	2. my explanation of the nature and extent of the limitations (as required by section 165AP(2)(iii)).

### Human rights that are affected, but not limited

1. Further, in my opinion, the obligations imposed by the order will affect, but not limit, the human rights identified in paragraph 50 of the Human Rights Statement.
2. My explanation for why those rights are affected, but not limited, by the Order is set out in the Human Rights Statement.

## How the obligations imposed by the Order will protect public health

1. I carefully read and considered the Chief Health Officer's advice, noting that it supplements the advice provided on 10 December 2021 and the verbal advice provided on 14 December 2021.
2. In relation to the restrictions that will be imposed by this Order, the Chief Health Officer relevantly advised:
	1. COVID-19 case rates in Victoria remain elevated despite significant population coverage in Victoria of greater than 90 per cent full vaccination in those aged 12 years and above.[[30]](#footnote-31)
	2. Omicron is expected to compound the ongoing issue of elevated case numbers driven by the currently predominant Delta Variant of Concern (**Delta**). Elevated case numbers already constitute a significant burden on Victoria’s testing capacity and the Victorian health system. Without additional public health interventions, there is a clear and realistic possibility of widespread infection and serious illness, an unsustainable burden on the health system and substantial disruption to economic and social activities throughout the community.[[31]](#footnote-32)
		1. Face coverings are a low impost measure that simultaneously reduces a person’s capacity to spread exhaled particles into the surrounding environment and the risk of uninfected people inhaling infectious particles.[[32]](#footnote-33)
	3. With community transmission persisting in Victoria, face coverings are needed in high-risk settings, such as hospitals and residential aged care facilities, where vulnerable population groups, such as the elderly and immunocompromised, may be exposed.[[33]](#footnote-34)
	4. The transmission risks in indoor and confined spaces with poor ventilation (and particularly when physical distancing is difficult to maintain) is much higher when compared to outdoor spaces.[[34]](#footnote-35)
	5. With high ongoing rates of community transmission of Delta in Victoria, as well as increasing local cases of Omicron, the re-introduction of face masks in all non-residential indoor settings is an appropriate intervention that will reduce the risk of widespread transmission.[[35]](#footnote-36)
	6. The Minister should also consider requiring face masks for all staff and all patrons aged 8 years and above for indoor public events and some specific outdoor public events where high numbers of patrons are attending and crowding is expected. Existing exceptions to face mask use, including for when people are eating or drinking, will continue to be in place[[36]](#footnote-37)
	7. In indoor settings, mandatory seated service should also be considered for reinstatement at hospitality and entertainment venues to reduce the aggregate movement and mixing of people in enclosed spaces. Given that we remove our face masks for eating and drinking, seated service requirements will assist to reduce the risk of transmission across various groups because physical distancing occurs due to spacing between tables. In addition, the contacts most at risk will be those seated next to a later identified case. They will generally be known to the case and can be more readily contacted and advised to test and isolate, rather than requiring all patrons to do so.[[37]](#footnote-38)
	8. Children below the age of 12 years are not currently able to access vaccination and outbreaks in education settings comprise a substantial proportion of cases in Victoria’s Delta VOC outbreak. Face masks limit the risk of transmission in this cohort and the potential consequences of exposure and infection. Further, while severe disease and death due to COVID-19 are rare in children, the long-term potential consequences of infection, including of ‘long COVID’ are not well understood. Face mask requirements in children in Years 3-6 should continue to be part of a suite of measures to reduce transmission in schools.[[38]](#footnote-39)
	9. While face masks have been previously mandated for those aged 12 years and over in Victoria, recent outbreaks in education settings have involved children of all ages. As at 22 December 2021, there have been a total of 31,093 cases and 2,561 active cases in the 0-9 years age cohort. In children aged 10-19 years, there have been 22,652 total cases and 1,975 active cases. Face masks limit the risk of disease transmission in this cohort and the potential consequences of exposure and infection.23 Furthermore, while severe disease and death due to COVID-19 may be rare in children, the long-term potential consequences of infection, including ‘long COVID’ in this cohort are not well understood. This age group also continues to play a major role in disease transmission. Of note, the vast majority of Victorian population aged between 8 to 12 years of age is not currently vaccinated against COVID-19, leaving this group more vulnerable to the disease than older children who are eligible for vaccination.[[39]](#footnote-40)
	10. Introducing a face mask requirement for those aged 8 and over in all indoor settings in Victoria at this time could play a significant role in preventing the potential exponential rise in case numbers that is being observed overseas.[[40]](#footnote-41)
	11. Lowering the age from which masks should be mandated in the general community to 8 years old would align with face mask requirements currently in place for students in Years 3-6 when they are at school, where there have been no significant issues with using them in school settings.[[41]](#footnote-42)
	12. COVID-19 vaccines are safe and effective interventions that reduce the individual risk of contracting and transmitting coronavirus.[[42]](#footnote-43)
	13. COVID-19 vaccines are readily available in Victoria and workforces have had adequate time to meet the deadlines stipulated in current vaccine mandates.[[43]](#footnote-44)
	14. COVID-19 vaccines reduce the individual risk of experiencing more serious health outcomes from infection.[[44]](#footnote-45)
	15. There is no vaccine requirement for religious gatherings, weddings and funerals, in consideration of the health and wellbeing needs of the attendees who are participating in religious and spiritual activities, attending important social milestones.[[45]](#footnote-46)
	16. Between 1 August 2021 and 21 December 2021, there were 77 outbreaks associated with hospitality and entertainment venues that resulted in some 565 cases.24 Other than schools, more outbreaks have occurred in hospitality venues than any other public venue regulated by the Open Premises Orders.~~[[46]](#footnote-47)~~
	17. While, at this stage, it remains uncertain whether the protection afforded by vaccines against infection and severe illness has been significantly eroded by Omicron, preliminary results of studies collated by the WHO suggests that
		1. vaccines appear to have a reduced effectiveness against symptomatic infection and (to a lesser extent) hospitalisation for Omicron when compared to other variants,[[47]](#footnote-48) and
		2. vaccine effectiveness appears to improve in those who have received a booster dose of COVID-19 vaccines. In particular, booster vaccines appear to reduce the likelihood of severe illness. The same UK study18, outlined in paragraph 36 goes on to estimate that vaccine effectiveness against symptomatic illness from Omicron is 75.5% (95%CI: 56.1 to 86.3%) two weeks after a Pfizer vaccine booster dose in those who received a primary course of the Pfizer vaccine and 71.4% (95%CI: 41.8 to 86.0%) in those who received a primary course of the AstraZeneca vaccine.[[48]](#footnote-49)
	18. Importantly, even countries with high levels of previous infection or vaccination are seeing rapidly surging case numbers of the Omicron VOC. It is not yet known the extent to which these trends reflect the variant being able to evade previously established immunity (from infection or vaccination) or just its increased transmissibility.[[49]](#footnote-50)
3. I accept the Chief Health Officer's advice in relation to indoor face covering requirements. These restrictions should be implemented in a phased manner, contingent upon case numbers and hospitalisations. [[50]](#footnote-51)

## Countervailing possible impacts that the obligations imposed by the Order may have on individuals and the community

1. In making this decision, I have seriously considered the possible negative impacts of the Order on the individuals and the community.
2. In particular, as noted above, in the Human Rights Statement, I have considered how people’s human rights will be affected and limited by the Order.
3. In addition, I have also considered the following additional potential negative impacts:
	1. Some individuals may object to receiving a COVID-19 vaccine for a variety of reasons, including religious, cultural and personal health views and other belief systems. “There are some belief systems which disagree with aspects of the way that certain vaccinations are made if they are made with human tissues, and some have beliefs, associated with the body of a person being sacred, that the human body should not be in receipt of foreign chemicals or compounds.”[[51]](#footnote-52)
	2. “[E]xclusion from a physical workplace on the basis of vaccination status may be particularly onerous for single parents, for parents of younger children, and for parents of multiple children (who may find it impossible to work effectively at home). This may… disproportionately affect women who typically bear more of the child-minding or caring responsibilities in the home.”[[52]](#footnote-53)
	3. The order “may restrict the ability of [a] business to operate if some [of] their workforce are unable, or unwilling, to comply with the pandemic orders. The pandemic orders might in the short term reduce or affect the capacity of certain businesses to generate income from their real and personal property.”[[53]](#footnote-54)
	4. The order may result in people losing their employment, or unable to obtain employment if they are unwilling to be vaccinated and unable to perform their duties from home.
4. However, in considering the potential negative impacts, I have included exceptions to the requirement to wear a face covering for a range of circumstances including where:
	1. a person has a physical or mental health illness or condition, or disability, which makes wearing a face covering unsuitable; or
	2. a person is communicating with a person who is deaf or hard of hearing and visibility of the mouth is essential for communication; or
	3. where wearing a face covering is not safe.

## Whether there are any less restrictive alternatives that are reasonably available to protect public health

1. In his advice, the Chief Health Officer sets out a range of measures, including measures which do not have a restrictive element (such as health promotion, education, epidemiology and monitoring).[[54]](#footnote-55)
2. The Chief Health Officer clearly states that such measures alone will not be sufficient to manage the serious risk to public health posed by COVID-19.[[55]](#footnote-56)
3. Public education and health promotion can provide community members with an understanding of COVIDSafe behaviours and actions, such as hand hygiene, staying home when unwell and testing when symptomatic.[[56]](#footnote-57) However, onsite work for specified workers typically involves a significant amount of workforce interaction and movement.[[57]](#footnote-58) In addition, it is possible for individuals to be asymptomatic and infectious.[[58]](#footnote-59) Education and practicing of COVIDSafe behaviours are consequently not sufficient to manage the risk high levels of workforce interaction poses to public health.
4. While epidemiology and monitoring is necessary to facilitate contact tracing to reduce the onward spread of COVID-19,[[59]](#footnote-60) the high levels of transmission currently in Victoria indicates there may be an ongoing substantial proportion of undiagnosed COVID-19 cases in the community.[[60]](#footnote-61) Ensuring high vaccination coverage for specified workers reduces the risk of individuals transmitting COVID-19 to others.[[61]](#footnote-62)
5. Surveillance testing is used in certain high-risk industries to increase the likelihood of early detection of cases,[[62]](#footnote-63) however surveillance testing as an alternative to mandatory vaccination requirements for specified workers has operational challenges and resource constraints and is therefore not suited as a replacement to protect the community from COVID-19. [[63]](#footnote-64)
6. There are a number of challenges that prevent the combination of mask wearing and testing being an equally robust solution to the risks of exposure and transmission compared to vaccines.[[64]](#footnote-65) Mask wearing is appropriate in many higher risk settings, and these settings often required an N95 face mask, other PPE, training in PPE use, and a buddy system in place for donning and offing. Even though these settings reported generally high levels of compliance, compliance clearly fluctuated across time and depended on participants’ (variable) motivation to comply.
7. The effectiveness of face mask use in communities is influenced by the general compliance and appropriate monitoring and wearing of masks, in addition to education, communication and guidance campaigns.[[65]](#footnote-66) There would be significant problems with providing sufficient resources to upscale and maintain the auditing processes across the general community to a level that is sufficient to ensure correct PPE use.
8. Proof of a past recent infection is not currently considered an acceptable reason for exemption from vaccination because immune response to natural infection is known to wane over time.[[66]](#footnote-67) Reinfection following both infection and vaccination is likely to be of increasing concern with emerging variants, as already demonstrated with the Delta VOC, and increasingly with the Omicron VOC.
9. Negative point in time test results for COVID-19, while less onerous than a mandatory vaccination requirement for Specified Workers, fails to provide the same protection for workforces.[[67]](#footnote-68) A negative point in time test result may provide a delayed and therefore inaccurate indication of an individual’s actual COVID-19 status.  In the past few weeks, positive COVID-19 cases in the community have steadily increased due to a heightened transmission risk represented by the return to onsite work and easing of restrictions in the Victorian community.
10. PCR is the gold standard diagnostic test. However, it is more resource intensive to deliver, requiring dedicated testing sites, healthcare worker administration, laboratory resources, and result-reporting pathways. PCR testing capacity is finite and can be overwhelmed as seen during the recent peak in cases driven by the Delta Variant of concern. Increased use would increase the burden on the system and contribute to increased waiting times at pathology testing sites and turnaround times for results for the entire community.
11. Generally, there is a minimum turnaround time of 6-24 hours between a test being administered and a result being received. During this period between the test being undertaken and received and then attendance at the venue, further infectious exposures could occur.[[68]](#footnote-69)
12. Due to the operational issues (essentially, delays and bottlenecks) associated with performing a RA test, settings and workplaces have been unable or unwilling to utilise on-site RA tests and have allowed individuals to provide proof of a RA test. People would have to take a RA test every day and there are real challenges in overseeing compliance with the result.[[69]](#footnote-70) Further, proof of a negative test result as a point-in-time indicator is not a perfect indicator of infectiveness. In a setting with high community transmission, proof of negative test results may provide a delayed and therefore inaccurate indication of an individual’s actual status.[[70]](#footnote-71)
13. In considering whether a combination of testing, distancing and screening might be sufficiently effective, although the risk of transmission is less in some settings – especially outdoors or places that were highly ventilated – not all workplaces and settings are organised, outdoors or highly ventilated. It is necessary to protect Victorians in all the settings they visit, whether shopping, working or engaging in essential activities. No other mitigation than vaccination applies universally in all settings and circumstances. A vaccine, once administered, provides continuous protection that doesn’t require compliance (albeit in a manner that wanes over time).[[71]](#footnote-72)
14. Since the start of November 2021, the proportion of tests returning a positive result in Victoria has been between 1.5-2 per cent. This is a significantly higher proportion positive than New South Wales, which has stabilised to below 0.5 per cent for many weeks. With this elevated risk, I considered high workforce vaccination coverage, supported by vaccinated mandates, reasonably necessary to diminish these disruptions and reduce outbreaks for specified workers.
15. In making this order, I considered the Chief Health Officer’s Advice where advised me that “it would seem appropriate, given the interaction with vulnerable population groups that consideration be given to mandatory third dose booster vaccinations for healthcare workers, aged and disability care workers in the first instance.”[[72]](#footnote-73) This was due to the workforces “interaction with vulnerable population groups” and a concern of “waning immunity [that] is associated with an increased incidence in breakthrough infections.”[[73]](#footnote-74) As there has not been national agreement or ATAGI advice issued for mandating booster vaccines for healthcare, aged care and disability workers, I have decided not to make orders mandating booster vaccine doses for healthcare, aged care and disability workers.

## Other considerations

1. The mandatory vaccination requirement for Specified Workers, General Workers, Specified Facilities and Open Premises reduces the risk of transmission within the broader community. This provides greater community protection and certainty, which is an important consideration as the state economy begins to recover from the unprecedented impact of the pandemic.[[74]](#footnote-75)
2. In making this order, I consider it reasonably necessary to maintain the mandatory vaccination requirements for Specified Workers, General Workers, Specified Facilities and Open Premises, as these requirements assist with public confidence in the overall administration of public health, and results in overall improvements in community compliance for prosocial behaviours, such as self-isolation when symptomatic, wearing a face covering in certain settings and maintaining social distancing.[[75]](#footnote-76)

## Conclusion

1. Taking into account all of the above factors (including those contained in the Human Rights Statement) and weighing the public health benefits of the Order against the countervailing potential impacts on individuals and the community, I believe it was reasonably necessary to make the Order to protect public health.
2. For the same reasons, I formed the opinion that the limits placed on human rights by the Order are demonstrably justified for the purposes of the Charter.
1. Department of Health, Chief Health Officer Advice to Minister for Health dated 10 December 2021, p. 14 at [51]. [↑](#footnote-ref-2)
2. Department of Health, Chief Health Officer Advice to Minister for Health dated 10 December 2021, p. 5 at [13]-[15]. [↑](#footnote-ref-3)
3. Department of Health, Chief Health Officer Advice to Minister for Health dated 10 December 2021, p. 14 at [50]. [↑](#footnote-ref-4)
4. Department of Health, Chief Health Officer Advice to Minister for Health dated 10 December 2021, p. 14 at [51]; see also p.4 at [7]. [↑](#footnote-ref-5)
5. See *Public Health and Wellbeing Act 2008¸*section 3(1) for definition of ‘serious risk to public health’. [↑](#footnote-ref-6)
6. Department of Health, *Chief Health Officer Advice to Minister for Health* dated 10 December 2021*,* p. 4 at [5]. [↑](#footnote-ref-7)
7. Department of Health, *Chief Health Officer Advice to Minister for Health* dated 10 December 2021*,* p. 4 at [6]. [↑](#footnote-ref-8)
8. Department of Health, *Chief Health Officer Advice to Premier – Advice Relating to the Making of a Pandemic Declaration,* p. 13 at [47]. [↑](#footnote-ref-9)
9. Department of Health, *Chief Health Officer Advice to Minister for Health*, (23 December 2021) p. 13 at [62]. [↑](#footnote-ref-10)
10. Department of Health, Chief Health Officer Advice to Minister for Health, (23 December 2021) p. 17 at [91] [↑](#footnote-ref-11)
11. Department of Health, Chief Health Officer Advice to Minister for Health, (23 December 2021) p. 12 at [51]. [↑](#footnote-ref-12)
12. Department of Health, Chief Health Officer Advice to Minister for Health, (23 December 2021) p. 12 at [52]. [↑](#footnote-ref-13)
13. Department of Health, Chief Health Officer Advice to Minister for Health, (23 December 2021) p. 12 at [53. [↑](#footnote-ref-14)
14. Department of Health, Chief Health Officer Advice to Minister for Health, (23 December 2021) p. 14 at [71]. [↑](#footnote-ref-15)
15. Department of Health, Chief Health Officer Advice to Minister for Health, (23 December 2021) p. 12 at [54-57]. [↑](#footnote-ref-16)
16. Department of Health, Chief Health Officer Advice to Minister for Health, (23 December 2021) p. 19 at [102]. [↑](#footnote-ref-17)
17. Department of Health, Chief Health Officer Advice to Minister for Health, (23 December 2021) p. 19 at [103]. [↑](#footnote-ref-18)
18. Department of Health, Chief Health Officer Advice to Minister for Health, (23 December 2021) p. 20 at [108]. [↑](#footnote-ref-19)
19. Department of Health, Chief Health Officer Advice to Minister for Health, (23 December 2021) p. 16 at [83]. [↑](#footnote-ref-20)
20. Department of Health, Chief Health Officer Advice to Minister for Health, (23 December 2021) p. 16 at [86]. [↑](#footnote-ref-21)
21. Department of Health, Chief Health Officer Advice to Minister for Health, (23 December 2021) p. 16 at [80]. [↑](#footnote-ref-22)
22. Department of Health, *Chief Health Officer Advice to Minister for Health* dated 10 December 2021*,* p.16 at [66]. [↑](#footnote-ref-23)
23. Department of Health, Chief Health Officer Advice to Minister for Health, (23 December 2021) p. 3 at [9]. [↑](#footnote-ref-24)
24. Department of Health, Chief Health Officer Advice to Minister for Health, (23 December 2021) p. 15 at [77]. [↑](#footnote-ref-25)
25. Department of Health, Chief Health Officer Advice to Minister for Health, (23 December 2021) p.15 at [77]. [↑](#footnote-ref-26)
26. Department of Health, Chief Health Officer Advice to Minister for Health, (23 December 2021) p. 3 at [11]. [↑](#footnote-ref-27)
27. Department of Health, Chief Health Officer Advice to Minister for Health, (23 December 2021) p. 15 at [76]. [↑](#footnote-ref-28)
28. Department of Health, Chief Health Officer Advice to Premier – Advice Relating to the Making of a Pandemic Declaration, p. 13 at [48]. [↑](#footnote-ref-29)
29. Department of Health, *Chief Health Officer Advice tog Minister for Health*(11 December 2021) pp. 17-18 [71]. [↑](#footnote-ref-30)
30. Department of Health, *Chief Health Officer Advice to Minister for Health* (10 December 2021), p. 28 at [136]. [↑](#footnote-ref-31)
31. Department of Health, *Chief Health Officer Advice to Minister for Health* (23 December 2021), p. 2 at [5]. [↑](#footnote-ref-32)
32. Department of Health, *Chief Health Officer Advice to Minister for Health* (10 December 2021),p. 16 at [65 – 66]. [↑](#footnote-ref-33)
33. Department of Health, *Chief Health Officer Advice to Minister for Health* (10 December 2021),p. 16 at [67]. [↑](#footnote-ref-34)
34. Department of Health, *Chief Health Officer Advice to Minister for Health* (23 December 2021),p. 13 at [60]. [↑](#footnote-ref-35)
35. Department of Health, *Chief Health Officer Advice to Minister for Health* (23 December 2021),p. 13 at [61]. [↑](#footnote-ref-36)
36. Department of Health, *Chief Health Officer Advice to Minister for Health* (23 December 2021),p. 17 at [91]. [↑](#footnote-ref-37)
37. Department of Health, *Chief Health Officer Advice to Minister for Health* (10 December 2021),p. 16 at [86]. [↑](#footnote-ref-38)
38. Department of Health, *Chief Health Officer Advice to Minister for Health* (10 December 2021),p. 16 at [68]. [↑](#footnote-ref-39)
39. Department of Health, *Chief Health Officer Advice to Minister for Health* (23 December 2021),p. 13 at [63]. [↑](#footnote-ref-40)
40. Department of Health, *Chief Health Officer Advice to Minister for Health* (23 December 2021),p. 13 at [63]. [↑](#footnote-ref-41)
41. Department of Health, *Chief Health Officer Advice to Minister for Health* (23 December 2021),p. 13 at [64]. [↑](#footnote-ref-42)
42. Department of Health, *Chief Health Officer Advice to Minister for Health* (10 December 2021),p. 28 at [137].  [↑](#footnote-ref-43)
43. Department of Health, *Chief Health Officer Advice to Minister for Health* (10 December 2021),p. 29 at [137].  [↑](#footnote-ref-44)
44. Department of Health, *Chief Health Officer Advice to Minister for Health* (10 December 2021),p. 28 at [137].  [↑](#footnote-ref-45)
45. Department of Health, *Chief Health Officer Advice to Minister for Health* (10 December 2021),p. 31 at [154]. [↑](#footnote-ref-46)
46. Department of Health, *Chief Health Officer Advice to Minister for Health* (23 December 2021),p. 15 at [75]. [↑](#footnote-ref-47)
47. Department of Health, *Chief Health Officer Advice to Minister for Health* (23 December 2021),p. 8 at [34]-[35]. [↑](#footnote-ref-48)
48. Department of Health, *Chief Health Officer Advice to Minister for Health* (23 December 2021),p. 9 at [37]. [↑](#footnote-ref-49)
49. Department of Health, *Chief Health Officer Advice to Minister for Health* (23 December 2021),p. 9 at [38]. [↑](#footnote-ref-50)
50. Department of Health, *Chief Health Officer Advice to Minister for Health* (23 December 2021),p. 15 at [76]. [↑](#footnote-ref-51)
51. Department of Health, *Human Rights Statement: Pandemic (Movement and Gathering)* (10 December 2021), at [136.2]. [↑](#footnote-ref-52)
52. Department of Health, *Human Rights Statement: Pandemic (Movement and Gathering)* (10 December 2021), at [137.4]. [↑](#footnote-ref-53)
53. Department of Health, *Human Rights Statement: Pandemic (Movement and Gathering)* (10 December 2021), at [66], [93], [119]. [↑](#footnote-ref-54)
54. Department of Health, *Chief Health Officer Advice to Minister for Health* (10 December 2021),pp. 14 – 20. [↑](#footnote-ref-55)
55. Department of Health, *Chief Health Officer Advice to Minister for Health* (10 December 2021), pp. 10-11 [34]-[36]. [↑](#footnote-ref-56)
56. Department of Health, *Chief Health Officer Advice to Minister for Health* (10 December 2021),p. 15 at [52] – [53]. [↑](#footnote-ref-57)
57. Department of Health, *Chief Health Officer Advice to Minister for Health* (10 December 2021),pp. 21 at [91]; p. 30 at [142] – [143]. [↑](#footnote-ref-58)
58. Department of Health, *Chief Health Officer Advice to Minister for Health* (10 December 2021),pp. 15 at [62]. [↑](#footnote-ref-59)
59. World Health Organisation, *Contact Tracing in the context of COVID-19: Interim guidance* [Online, 2021] Available at: https://apps.who.int/iris/bitstream/handle/10665/339128/WHO-2019-nCoVContact\_Tracing-2021.1-eng.pdf?sequence=24&isAllowed=y [Accessed 5 December 2021]. [↑](#footnote-ref-60)
60. Department of Health, *Chief Health Officer Advice to Minister for Health* (10 December 2021),p. 8 at [26]. [↑](#footnote-ref-61)
61. Department of Health, *Chief Health Officer Advice to Minister for Health* (10 December 2021),p. 28 at [137]. [↑](#footnote-ref-62)
62. Department of Health, *Chief Health Officer Advice to Minister for Health* (10 December 2021),p. 22 at [97]. [↑](#footnote-ref-63)
63. Department of Health, *Chief Health Officer Advice to Minister for Health* (10 December 2021),p. 22 at [99-100]. [↑](#footnote-ref-64)
64. Text reflects verbal advice provided by the Chief Health Officer to the Minister for Health, 14 December 2021. [↑](#footnote-ref-65)
65. Text reflects verbal advice provided by the Chief Health Officer to the Minister for Health, 14 December 2021. [↑](#footnote-ref-66)
66. Department of Health, *Chief Health Officer Advice to Minister for Health* (10 December 2021),pp. 28 at [132]; p. 30 at [147]. [↑](#footnote-ref-67)
67. Text reflects verbal advice provided by the Chief Health Officer to the Minister for Health, 14 December 2021. [↑](#footnote-ref-68)
68. Text reflects verbal advice provided by the Chief Health Officer to the Minister for Health, 14 December 2021. [↑](#footnote-ref-69)
69. Text reflects verbal advice provided by the Chief Health Officer to the Minister for Health, 14 December 2021. [↑](#footnote-ref-70)
70. Text reflects verbal advice provided by the Chief Health Officer to the Minister for Health, 14 December 2021. [↑](#footnote-ref-71)
71. Text reflects verbal advice provided by the Chief Health Officer to the Minister for Health, 14 December 2021. [↑](#footnote-ref-72)
72. Department of Health, *Chief Health Officer Advice to Minister for Health* (10 December 2021), p. 30 at [147]. [↑](#footnote-ref-73)
73. Department of Health, *Chief Health Officer Advice to Minister for Health* (10 December 2021), p. 30 at [147]. [↑](#footnote-ref-74)
74. Department of Treasury and Finance, *Coronavirus Economic Outlook* [Online, 2021] Available at: https://www.dtf.vic.gov.au/economic-and-financial-updates/coronavirus-economic-outlook [Accessed 13 December 2021]. [↑](#footnote-ref-75)
75. Department of Health, *Chief Health Officer Advice to Minister for Health* (11 December 2021), p. 30 at [146]. [↑](#footnote-ref-76)