

# **Guidance for the Pandemic (Additional Industry Obligations) Order 2021 (No. 1)**

The presence of a person with a positive diagnosis for COVID-19 at a work premises is considered to pose an immediate risk of transmission to persons who attend, or may attend the work premises.

This Order imposes additional specific obligations on employers and workers in specific industries in relation to managing the risk associated with COVID-19.

The following industries must comply with this Order:

- (1) poultry processing facilities;
- (2) abattoirs and meat processing facilities;
- (3) seafood processing facilities;
- (4) supermarket work premises and perishable food work premises;
- (5) warehousing and distribution centres;
- (6) commercial cleaning services;
- (7) care facilities;
- (8) ports of entry servicing international arrivals;
- (9) hotel quarantine;
- (10) hospitals;
- (11) construction sites.

An authorised officer or inspector may conduct an inspection of the work premises and audit the records of the employer.

An employer must consult with health and safety representatives, together with workers who are likely to be directly affected in relation to the implementation of the Additional Industry Obligations.

Failure to comply with this Order may result in penalties.

*This explanatory guidance does not form part of the Pandemic (Additional Industry Obligations) Order 2021 (No. 1) and is for explanatory purposes only.*

**Pandemic (Additional Industry Obligations) Order 2021  
(No. 1)**

**TABLE OF PROVISIONS**

Part 1 – Preliminary .....	3
1. Objective.....	3
2. Citation .....	3
3. Authorising provision.....	3
4. Commencement and revocation .....	3
5. Definitions .....	3
6. Application of this Order.....	4
Part 2 – Additional Industry Obligations .....	4
7. Application of this Order to certain employers and roles.....	4
8. General obligations.....	4
9. Compliance.....	5
10. Consultation.....	5
11. Additional Industry Obligations .....	5
12. Abattoirs and meat processing facilities, poultry processing facilities and seafood processing facilities.....	7
13. Care facilities.....	7
14. Ports of entry .....	9
15. Hotel quarantine .....	10
16. Hospitals.....	11
Part 3 – General provisions.....	13
17. Relationship with other Orders.....	13
18. Severability.....	13
19. Transitional provisions .....	13
Part 4 – Penalties.....	14
20. Penalties.....	14
Schedule 1 —Restrictions on Elective Surgery .....	15
Schedule 2 – Definitions.....	18

## **Pandemic (Additional Industry Obligations) Order 2021 (No. 1)**

I, Martin Foley, Minister for Health, make the following Order under the **Public Health and Wellbeing Act 2008** in the belief that this Order is reasonably necessary to protect public health throughout Victoria from the serious risk arising from the coronavirus (COVID-19) pandemic disease.

### **Part 1 – Preliminary**

#### **1. Objective**

- (1) The purpose of this Order is to establish additional specific obligations on employers and workers in specific industries in relation to managing the risk associated with COVID-19 transmission in the work premises.
- (2) This Order must be read together with the pandemic orders in force.
- (3) This Order is intended to supplement any obligations an employer may have under the **Occupational Health and Safety Act 2004** and the Workplace Orders and are not intended to derogate from any such obligations.

#### **2. Citation**

This Order may be referred to as the **Pandemic (Additional Industry Obligations) Order 2021 (No. 1)**.

#### **3. Authorising provision**

This Order is made under section 165AI of the **Public Health and Wellbeing Act 2008**.

#### **4. Commencement and revocation**

- (1) This Order commences at 11:59:00pm on 15 December 2021 and ends at 11:59:00pm on 12 January 2022.
- (2) The **Workplace (Additional Industry Obligations) Directions (No. 58)** are revoked at 11:59:00pm on 15 December 2021.

#### **5. Definitions**

Terms used in the Order have meanings set out in Schedule 2.

## **6. Application of this Order**

This Order applies to the whole State of Victoria.

## **Part 2 – Additional Industry Obligations**

### **7. Application of this Order to certain employers and roles**

- (1) This Order applies to Additional Obligation Industries, namely:
  - (a) poultry processing facilities;
  - (b) abattoirs and meat processing facilities;
  - (c) seafood processing facilities;
  - (d) supermarket work premises and perishable food work premises;
  - (e) warehousing and distribution centres;
  - (f) commercial cleaning services;
  - (g) care facilities;
  - (h) ports of entry servicing international arrivals;
  - (i) hotel quarantine;
  - (j) hospitals;
  - (k) construction sites.
- (2) This Order applies to Additional Obligation Industries work premises that are located:
  - (a) in relation to supermarket work premises and perishable food work premises, and warehousing and distribution centres, in Metropolitan Melbourne; and
  - (b) in relation to all other Additional Obligation Industries not referred to in subclause (a), anywhere in Victoria, unless this Order indicates otherwise.

### **8. General obligations**

- (1) Clauses 9 and 10 apply to high-risk hospital work premises.

*Note: the exception of care facilities and hospitals (except for high-risk hospital work premises) as being exempt from the requirements in clause 8 does not exempt care facilities from satisfying equivalent requirements imposed under other regulatory arrangements.*

## **9. Compliance**

To assess an employer's compliance with this Order, an authorised officer or inspector (or their nominated representative) may conduct:

- (a) an inspection of a work premises; or
- (b) an inspection or audit of the records of an employer.

## **10. Consultation**

An employer in relation to a high-risk hospital work premises must, to the extent reasonably practicable, consult with health and safety representatives, together with workers who are, or are likely to be, directly affected:

- (a) to identify or assess risks to health or safety at a workplace; and
- (b) to make decisions about the measures to be taken to control risks to health and safety; and
- (c) to determine if any risk identified under subclause (a) is either under the employer's management and control or arises from the employer's conduct; and
- (d) to make decisions about the adequacy of facilities for the welfare of workers; and
- (e) in making decisions about procedures to resolve health and safety issues, including (but not limited to):
  - (i) procedures around health and safety consultation itself;
  - (ii) procedures to monitor the health of workers and the conditions of the workplace;
  - (iii) procedures to provide information and training to workers; and
- (f) by a change to:
  - (i) a workplace; or
  - (ii) the plant, substances, or other things used at a workplace; or
  - (iii) the conduct of work performed at a workplace.

## **11. Additional Industry Obligations**

- (1) An employer in relation to an Additional Obligation Industry work premises must:

- (a) where the employer's work premises is an industry that is listed in the Surveillance Testing Industry List and Requirements (as amended from time to time on the advice of the Chief Health Officer):
- (i) carry out surveillance testing for COVID-19 on its workers in relation to the work premises in accordance with the requirements of the Surveillance Testing Industry List and Requirements (as amended from time to time on the advice of the Chief Health Officer), including:
    - (A) those sections of its workforce required to be tested under the Surveillance Testing Industry List and Requirements;
    - (B) a weekly surveillance testing target of the percentage of workers that are to be tested; and
  - (ii) for industries that require workers to undergo a COVID-19 rapid antigen test, if a worker receives an invalid test result from the COVID-19 rapid antigen test, the employer must direct the worker to undertake a second COVID-19 rapid antigen test as soon as possible; and
  - (iii) for industries that require workers to undergo a COVID-19 rapid antigen test, if a worker receives:
    - (A) a positive test result from the COVID-19 rapid antigen test; or
    - (B) two successive invalid COVID-19 rapid antigen test results,the employer must direct the worker to:
    - (C) undertake a COVID-19 PCR test as soon as possible; and
    - (D) self-isolate until a negative COVID-19 PCR test result is received; and
  - (iv) keep records of surveillance testing of workers for COVID-19, which demonstrate that the employer has complied with its obligations under subclause (i) in relation to the work premises; and
  - (v) provide the records required to be kept by the employer under subclause (iv) to the Department upon request by the Department for those records.

*Note: the industries and requirements included in the Surveillance Testing Industry List and Requirements may be amended on the advice of the Chief Health Officer.*

- (2) An employer is not required to carry out surveillance testing for COVID-19 pursuant to subclause (1)(a)(i) in relation to a worker who is a confirmed case for period of 90 days commencing from the date the diagnosis of COVID-19 is confirmed through a COVID-19 PCR test.

## 12. **Abattoirs and meat processing facilities, poultry processing facilities and seafood processing facilities**

- (1) In relation to a work premises that is an abattoir, meat processing facility, poultry processing facility or seafood processing facility, an employer must ensure that all workers at the work premises wear the appropriate level of personal protective equipment:
- (a) to carry out the functions of the worker's role; and
  - (b) to mitigate the introduction of COVID-19 at the work premises including (but not limited to) at a minimum, wearing a surgical face mask, unless it is not reasonably practicable to wear a surgical face mask in the work premises or the nature of a worker's work means that it creates a risk to their health and safety.

*Note 1: an employer at a work premises that is an abattoir, meat processing facility, poultry processing facility or seafood processing facility is required to comply with subclause (b) unless an exception under the **Movement and Gathering Order** applies in respect of a worker, in which case the employer is exempted from requiring that worker to wear a face covering.*

## 13. **Care facilities**

- (1) An employer in relation to a work premises that is a care facility in Victoria must require care facility workers in relation to a care facility to wear a face covering while working in any indoor space at the care facility if the worker is performing a resident-facing role at the care facility, unless an exception under the **Movement and Gathering Order** applies to that worker.

*Example: where a care facility worker is communicating with a resident who is hard of hearing or deaf and visibility of the mouth is essential for communication, that care facility worker may remove their face covering whilst communicating with the resident.*

*Note 1: the exception from the requirement to wear a face covering pursuant the **Movement and Gathering Order** does not apply to a worker at a work premises that is a care facility in Victoria.*

*Note 2: a care facility worker working in a resident-facing role at a care facility must wear a mask at all times while working in an indoor space including when they are not interacting with residents.*

- (2) If a care facility worker is working at more than one work premises for two or more different employers:

- (a) the care facility worker must provide a written declaration to each employer to advise them that the worker is working at more than one work premises and must provide details of the other work premises to each employer; and
  - (b) each employer must maintain a record of all care facility workers who have disclosed to the employer under subclause (a) that they are working across more than one work premises.
- (3) Despite the **Visitors to Hospitals and Care Facilities Order**, an employer in relation to a work premises that is a care facility in Victoria must not permit an employee or contractor (excluding a visiting health care professional) to enter the care facility where:
- (a) the employee or contractor has, on or after 4 October 2020, worked at another care facility; and
  - (b) at the time the employee or contractor worked at that other care facility, a confirmed case was present at that other facility,
- unless:
- (c) if the employee or contractor is fully vaccinated:
    - (i) at least 7 days have elapsed since the last time the employee or contractor worked at that other facility while a confirmed case was present; and
    - (ii) the employee or contractor:
      - (A) has undertaken a COVID-19 PCR test on or after 6 days from the day that the employee or contractor last worked at that other facility while a confirmed case was present; and
      - (B) received confirmation that the results of the test undertaken pursuant to subclause (A) were negative; or
  - (d) if the employee or contractor is not fully vaccinated:
    - (i) at least 14 days have elapsed since the last time the employee or contractor worked at that other facility while a confirmed case was present; and
    - (ii) the employee or contractor:
      - (A) has undertaken a COVID-19 PCR test on or after 13 days from the day that the employee or contractor last worked at that other facility while a confirmed case was present; and



- (B) received confirmation that the results of the test undertaken pursuant to subclause (A) were negative; and
- (e) the employee or contractor has provided evidence of the negative COVID-19 PCR test result pursuant to subclause (c) or (d) to the employer prior to commencing work at that care facility.

*Note 1: providing the employer with hardcopy or electronic notification confirming the negative test result from a testing provider is sufficient evidence.*

*Note 2: the effect of subclause (3) is that, in the event of an outbreak of COVID-19 at a care facility, an employee or contractor present during the outbreak must only work at that facility, and cannot be permitted to work at other care facilities. Such employees or contractors must wait a minimum period of either 7 days if they are fully vaccinated or 14 days if they are not fully vaccinated from when they last worked a shift while a confirmed case was present at the facility and test negative for COVID-19, before moving from that care facility to commence work at another care facility. No test is required if it has been 28 days or more since the employee or contractor last worked a shift while a confirmed case was present at the facility.*

- (4) For the avoidance of any doubt, the obligations on an employer in subclause (3) do not apply to a visiting health care professional entering the care facility.
- (5) An employer in relation to a work premises that is a care facility in Victoria must comply with personal protective equipment requirements in accordance with the requirements of the Department.
- (6) The Chief Health Officer may grant an exemption in writing to the requirements of subclause (3).

*Note: an exemption may only be granted where it is necessary to ensure that residents are provided with a reasonable standard of care.*

#### **14. Ports of entry**

- (1) Subject to subclause (2), a port of entry worker means:
  - (a) any airport or maritime port worker who has direct contact (including occasional contact or interactions) with international passengers or crew, at the international port of entry; or
  - (b) a worker or person who interacts with the environment within the international port of entry (including any worker or person who boards a vessel, ship or aircraft) where international passengers and crew are or have been.

*Note: interacting with the "environment" within the international port of entry refers to handling items and/or using or being in communal facilities (such as toilets, waiting areas and seating) that have been used by or are being used by international*

*passengers and crew. It also refers to boarding or entering a vessel, ship or aircraft where international passengers and crew are or have been.*

- (2) Despite subclause (1), a port of entry worker does not include any worker who works in an international departures area of an airport.
- (3) In relation to a work premises that is a port of entry work premises servicing international arrivals, an employer must:

*Note: a work premises which is a port of entry servicing international arrivals is a port or airport at which port of entry workers provide services in relation to, or encounter, passengers, crew members, shipping vessels or aircraft arriving in Victoria from outside of Australia, subject to the definition of "port of entry workers" above.*

- (a) make available an adequate supply of personal protective equipment free of charge to port of entry workers; and
- (b) ensure that all port of entry workers wear appropriate personal protective equipment in accordance with the requirements of the Department; and
- (c) if they are an employer of an international aircrew service worker, keep, and provide to the Department upon request by the Department, records of:
  - (i) the date and time each COVID-19 rapid antigen test is administered to an international aircrew service worker; and
  - (ii) the result of each COVID-19 rapid antigen test administered to an international aircrew service worker; and
  - (iii) in the event that the result of the COVID-19 rapid antigen test is positive for an international aircrew service worker, the date, time and result of a COVID-19 PCR test undertaken on that worker.

## **15. Hotel quarantine**

- (1) In relation to a work premises that is a hotel quarantine work premises, an employer must:
  - (a) make available an adequate supply of personal protective equipment free of charge to workers; and
  - (b) ensure that all workers wear appropriate personal protective equipment in accordance with the requirements of the Department; and
  - (c) provide regular training to workers (including, but not limited to, an induction for all workers commencing at, or returning to, the work premises) that covers:

- (i) good hygiene practices; and
- (ii) advising workers not to attend the work premises when unwell.

## 16. Hospitals

- (1) In relation to those parts of a hospital that are a high-risk hospital work premises, an employer must:
  - (a) arrange operations at the work premises so as to have high-risk hospital work premises workers working consistently with the same group of other high-risk hospital work premises workers where reasonably practicable, including (but not limited to):
    - (i) developing separate shifts in a way that minimises physical interactions between groups of high-risk hospital work premises workers attending different shifts;
    - (ii) separating high-risk hospital work premises workers into work areas;
    - (iii) dividing work areas up further into separate teams;
    - (iv) providing separate break areas for the separate teams;
    - (v) requiring teams to use separate entrances and exits from other teams;
    - (vi) where high-risk hospital work premises workers are from the same household, ensuring they work in the same shift and work area.
- (2) Subject to subclause (3), an employer in relation to a high-risk hospital work premises must not require or permit a high-risk hospital work premises worker to perform work at more than one work premises of the employer.
- (3) Subclause (2) does not apply where it is not practicable to limit a high-risk hospital work premises worker to only one work premises.
- (4) Where subclause (3) applies, the employer must be able to demonstrate the systems of work which it has put in place to minimise the number of high-risk hospital work premises workers working across multiple work premises.

*Example: rosters.*

- (5) If a high-risk hospital work premises worker working in a high-risk hospital work premises is working at more than one work premises for two or more different employers:

- (a) the high-risk hospital work premises worker must provide a written declaration to each employer to advise them that the high-risk hospital work premises worker is working at more than one work premises and must provide details of the other work premises to each employer; and
  - (b) each employer must maintain a record of all high-risk hospital work premises workers who have disclosed to the employer under subclause (a) that they are working across more than one work premises.
- (6) In relation to a work premises that is a hospital, an employer must require workers to declare in writing at the start of each shift:
- (a) whether the worker has completed a shift or shifts at another hospital in a high-risk hospital work premises in the 14 days prior to making the declaration; and
  - (b) if the worker declares that they have completed a shift or shifts at another hospital in a high-risk hospital work premises in the 14 days prior to making the declaration:
    - (i) the name of the relevant hospital; and
    - (ii) whether a shift, or any shifts, declared under subclause (a) were on the roster of a COVID streaming area.

*Note: a shift on the roster of a COVID streaming area includes a shift where the worker is primarily assigned to caring for COVID positive patients in a negative pressure room (for example, a nurse allocated to care for COVID positive patients in a negative pressure room). A shift on the roster of a COVID streaming area also includes staff who were rostered on to work and worked in the COVID streaming area and staff who were not originally rostered but worked in the area to cover a gap in the roster.*

- (7) In relation to:
- (a) a work premises identified in Column 1 of Schedule 1, an employer must comply with the restrictions and requirements outlined in Column 2 of Schedule 1; and
- except in relation to:
- (b) an in vitro fertilisation (IVF) procedure performed at a work premises that is a registered facility; or
  - (c) a procedure for the surgical termination of pregnancy.

## Part 3 – General provisions

### 17. Relationship with other Orders

- (1) If there is any inconsistency between this Order and a pandemic order in force or other requirement contained in a Detention Notice, this Order is inoperative to the extent of the inconsistency.
- (2) If there is any inconsistency between this Order and a requirement contained in the **Workplace Order**, the **Workplace Order** is inoperative to the extent of the inconsistency.

### 18. Severability

To the extent that any part of this order is held to be in excess of power or otherwise invalid it is intended that it is to be taken to be valid to the extent to which it is not in excess of that power.

### 19. Transitional provisions

- (1) A reference in any pandemic order in force (other than a revoked direction) to the **Workplace (Additional Industry Obligations) Directions (No 58)** is taken on and after the revocation of the **Workplace (Additional Industry Obligations) Directions (No 58)** to be a reference to this Order.
- (2) Any act matter or thing that had effect under the **Workplace (Additional Industry Obligations) Directions (No 58)** immediately before they were revoked continues to have effect under this Order.
- (3) Without limiting subclause (2), this Order is subject to any exemption, benefit, requirement or entitlement (however described) to which the **Workplace (Additional Industry Obligations) Directions (No 58)** were subject immediately before they were revoked.
- (4) This clause is subject to any express provision to the contrary in this Order.
- (5) In this clause:

*revoked direction* means a direction that is:

- (a) made by the Chief Health Officer or the Acting Chief Health Officer under section 200(1) of the **Public Health and Wellbeing Act 2008**; and
- (b) continued by section 165CJ of that Act as if it were a pandemic order in the same terms made under section 165AI(1); and
- (c) revoked by a pandemic order.

## Part 4 – Penalties

### 20. Penalties

Section 165BN of the **Public Health and Wellbeing Act 2008** provides:

#### **Failure to comply with pandemic order, direction or other requirement**

- (1) A person commits an offence if the person refuses or fails to comply with a pandemic order, or with a direction given to the person, or a requirement made of the person, in the exercise of a pandemic management power.

Penalty: In the case of a natural person, 60 penalty units;

In the case of a body corporate, 300 penalty units.

- (2) A person is not guilty of an offence against subsection (1) if the person had a reasonable excuse for refusing or failing to comply.

*Note: the **Public Health and Wellbeing Regulations 2019** provide for infringement notices to be served on any person who has refused or failed to comply (without a reasonable excuse) with a pandemic order, or a direction given or a requirement made in the exercise of a pandemic management power. The amount payable pursuant to the infringement notice varies depending on the nature of the failure or refusal and the age of the person.*

## Schedule 1 —Restrictions on Elective Surgery

Work premises (Column 1)	Current elective surgery restrictions (Column 2)
<p><b>Private hospitals in Metropolitan Melbourne</b> and in the local government area of the City of Greater Geelong, the City of Ballarat, the City of Greater Shepparton, the City of Greater Bendigo and the City of Latrobe</p> <p><b>Day procedure centres in Metropolitan Melbourne</b></p>	<p>(a) An employer may only permit elective surgery procedures to be performed if the employer:</p> <ul style="list-style-type: none"> <li>(i) has provided capacity and support to assist with the COVID-19 response, including to public health services operating a COVID-19 streaming area, as required; and</li> <li>(ii) does not exceed the volume cap on elective surgery procedures in paragraph (b).</li> </ul> <p>(b) An employer must ensure that the volume of elective surgery procedures performed per week is up to 75 per cent of the usual volume of allocated list time prior to the introduction of restrictions on elective surgery procedures under a revoked direction.</p> <p>(c) An employer must ensure patients requiring elective surgery procedures are prioritised based on clinical need. An employer must accommodate time critical and urgent elective surgery patients within the 75 per cent cap specified in paragraph (b).</p> <p>(d) The following services provided by an employer do not count towards the volume cap in place at each registered facility in accordance with paragraph (b):</p> <ul style="list-style-type: none"> <li>(i) all activity undertaken on behalf of public health services or public hospitals; and</li> <li>(ii) emergency surgery.</li> </ul> <p>(e) An employer supporting public health services operating a COVID-19 streaming area must:</p> <ul style="list-style-type: none"> <li>(i) agree arrangements with public health services to support the COVID-19 response before increasing elective surgeries within the 75 per cent cap on elective surgery procedures in paragraph (b); and</li> <li>(ii) where required to support the COVID-19 response, ensure referrals from public health services operating a COVID-19 streaming area of public patients requiring Category 1 and Category 2A elective surgery procedures are prioritised based on clinical need; and</li> <li>(iii) provide a report to the Department on a fortnightly basis that specifies the arrangements it has implemented to comply with paragraph (e).</li> </ul>
<p>All public health services located in <b>Metropolitan Melbourne</b> that do</p>	<p>(a) An employer may only permit elective surgery procedures to be performed if the employer:</p>

**Work premises (Column 1)    Current elective surgery restrictions  
(Column 2)**

<p>not operate a COVID-19 streaming area</p>	<p>(iii) has provided capacity and support to assist with the COVID-19 response, including to public health services operating a COVID-19 streaming area, as required; and</p> <p>(iv) does not exceed the volume cap on elective surgery procedures in paragraph (b).</p> <p>(b) An employer must ensure that the volume of elective surgery procedures performed per week is up to 75 per cent of the usual volume of allocated list time prior to the introduction of restrictions on elective surgery procedures under a revoked direction.</p> <p>(c) An employer must ensure patients requiring elective surgery procedures are prioritised based on clinical need. An employer must accommodate urgent elective surgery patients within the 75 per cent cap specified in paragraph (b).</p>
<p>All public health services located in <b>Metropolitan Melbourne</b> that operate a COVID-19 streaming area</p> <p>All public health services that are:</p> <ul style="list-style-type: none"> <li>• part of Barwon Health</li> </ul>	<p>(a) An employer may only permit an elective surgery procedure to be performed that is a Category 1 or Category 2A elective surgery procedure.</p> <p>(b) An employer must ensure all elective surgery procedures that are not urgent elective surgery procedures, including Category 2B elective surgery procedures and Category 3 elective surgery procedures and non-urgent non-ESIS procedures, are temporarily postponed.</p>
<p>All public health services and public hospitals in <b>Regional Victoria</b>, except those that are part of:</p> <ul style="list-style-type: none"> <li>• Barwon Health;</li> <li>• the Ballarat Health Service campus of Grampians Health;</li> <li>• Goulburn Valley Health;</li> <li>• Bendigo Health; or</li> <li>• the Latrobe Regional Hospital</li> </ul>	<p>(a) If an employer intends to reduce the volume of its allocated elective surgery procedure list, the employer must notify the Department prior to postponing any elective surgery procedures.</p> <p>(b) If (a) applies, an employer should ensure elective surgery procedures that are not urgent elective surgery procedures, including Category 2B elective surgery procedures and Category 3 elective surgery procedures, are reduced in the first instance.</p>
<p>All public health services that are:</p> <ul style="list-style-type: none"> <li>• part of the Ballarat Health Service campus of Grampians</li> </ul>	<p>(a) An employer must ensure that the volume of elective surgery procedures performed per week is up to 75 per cent of the usual volume of allocated list time prior to the introduction of</p>



**Work premises (Column 1)      Current elective surgery restrictions  
(Column 2)**

<p>Health;</p> <ul style="list-style-type: none"> <li>• part of Goulburn Valley Health;</li> <li>• part of Bendigo Health; and</li> <li>• the Latrobe Regional Hospital</li> </ul>	<p>restrictions on elective surgery procedures under a revoked direction.</p> <p>(b) An employer must ensure patients requiring elective surgery procedures are prioritised based on clinical need. An employer must accommodate urgent elective surgery patients within the 75 per cent cap specified in paragraph <b>Error! Reference source not found.</b></p> <p>(c) If an employer intends to reduce the volume of its allocated elective surgery procedure list, the employer must notify the Department prior to postponing any elective surgery procedures.</p> <p>(d) If (c) applies, an employer should ensure elective surgery procedures that are not urgent elective surgery procedures, including Category 2B elective surgery procedures and Category 3 elective surgery procedures, are reduced in the first instance.</p>
--	--

## Schedule 2 – Definitions

For the purposes of this Order:

**abattoir** has the meaning under the PrimeSafe licence categories “abattoirs (domestic)” and “abattoirs (exports)”;

**Additional Obligation Industries** has the meaning in clause 7(1);

**aircraft** means an aircraft that is mainly used for the purpose of, or is engaged, or is intended or likely to be engaged, in a flight wholly within Australia;

**airport** means a facility that receives scheduled international passenger air transport services and / or passenger charter air services from international markets;

**authorised officer** has the same meaning as in the **Public Health and Wellbeing Act 2008**;

**care facility** has the same meaning as in the **Visitors to Hospitals and Care Facilities Order**;

**care facility worker** has the same meaning as “worker” in the **Visitors to Hospitals and Care Facilities Order**;

**Category 1 elective surgery procedure** means a procedure that is clinically indicated within 30 days and where the patient's condition has the potential to deteriorate quickly to the point where the patient's condition may become an emergency;

**Category 2A elective surgery procedure** means a procedure that is clinically indicated within 90 days and where the patient's condition may deteriorate quickly and may become an emergency if not admitted within an appropriate time;

**Category 2B elective surgery procedure** means a procedure that is clinically indicated within 90 days and where the patient's condition is unlikely to deteriorate quickly or become an emergency during that period;

**Category 3 elective surgery procedure** means a procedure that is clinically indicated within 365 days but is unlikely to deteriorate quickly;

**confirmed case** means a worker or person diagnosed with COVID-19 and includes the period of time prior to the diagnosis during which the worker is considered infectious;

*Note: the period during which a person is considered infectious is generally considered to be 48 hours prior to the onset of COVID-19 symptoms, however, alternative infectious periods may be determined at the discretion of an officer or nominated representative of the Department (for instance, in high-risk settings or if the confirmed case is asymptomatic).*

**construction site** means a work premises at which civil works, building or construction activities take place;

**COVID-19** means the contagious disease caused by severe acute respiratory syndrome coronavirus 2;

**COVID-19 PCR test** means a COVID-19 polymerase chain reaction test;

**COVID-19 rapid antigen test** means a COVID-19 rapid antigen test;

**COVID streaming area** means any patient treatment area nominated by the relevant health service as an area dedicated to treating a confirmed case or confirmed cases, including negative pressure rooms for COVID-19 patients;

**COVID-19 symptoms** has the same meaning as in the **Workplace Order**;

**day procedure centre** has the same meaning as in the **Visitors to Hospitals and Care Facilities Order**;

**density quotient** has the same meaning as in the **Workplace Order**;

**Department** means the Department of Health;

**Detention Notice** means a notice given to a person requiring the person to be detained for a specified period under the **Public Health and Wellbeing Act 2008**;

**elective surgery procedure** means an urgent elective surgery procedure, urgent non-ESIS procedures, Category 1 elective surgery procedure, Category 2A elective surgery procedure, Category 2B elective surgery procedure, Category 3 elective surgery procedure or non-urgent non-ESIS procedure;

**employee** includes a person who is self-employed;

**employer** means a person who owns, operates or controls a work premises and includes a person who is self-employed or a sole-trader;

**face covering** has the same meaning as in the **Workplace Order**;

**fully vaccinated** has the same meaning as in the **Open Premises Order**;

**high-risk hospital work premises** means any hospital ward treating a confirmed case or cases of COVID-19;

**high-risk hospital work premises worker** means any worker involved in the direct care of patients, and those who interact with a high-risk hospital work premises;

**hospital** has the same meaning as in the **Visitors to Hospitals and Care Facilities Order**;

**hotel quarantine** means a place (being a hotel or other facility or class of facility), designated by the Attorney-General and published in the Government Gazette, where people are detained in or directed to remain in, or are staying in, quarantine, isolation or emergency accommodation at, for the purpose of eliminating or reducing the serious risk to public health posed by the COVID-19 pandemic;

**inspector** has the same meaning as in the **Occupational Health and Safety Act 2004**;

**meat processing facility** has the meaning under the PrimeSafe licence category “further meat processing facilities”;

**Metropolitan Melbourne** means the area within the municipal districts under the local government of the municipal councils set out in Schedule 2 of the **Planning and Environment Act 1987**;

**Movement and Gathering Order** means the **Pandemic (Movement and Gathering) Order 2021 (No. 1)** as amended or replaced from time to time;

**non-urgent non-ESIS procedure** means a non-time critical procedure that is not reported via the Elective Surgery Information System where the patient's condition is unlikely to deteriorate quickly;

**Open Premises Order** means the **Pandemic (Open Premises) Order 2021 (No. 1)** as amended or replaced from time to time;

**outbreak** means:

- (a) a single confirmed case of COVID-19 in a resident, staff member or frequent attendee of a residential aged care facility; or
- (b) two or more epidemiologically linked cases outside of a household with symptom onset within 14 days;

*Note: transmission within one household does not constitute an outbreak but will become part of an outbreak response if linked to a high priority setting. In some circumstances, the Department may identify other settings that are sensitive and where a single confirmed case will trigger an outbreak response. Relevant parties will be informed if this occurs. Determining whether a person is a frequent or infrequent visitor may be based on frequency of visits, time spent in the setting, and number of contacts within the setting.*

**pandemic orders in force** has the same meaning as in the **Movement and Gathering Order**;

**patient** has the same meaning as in the **Visitors to Hospitals and Care Facilities Order**;

**perishable food work premises** means a work premises that is predominantly a perishable food facility that is a chilled distribution facility;

**personal protective equipment** has the same meaning as in the **Occupational Health and Safety Regulations 2017**;

**port** means the port of Melbourne, the port of Geelong, the port of Portland, the port of Hastings and any other port declared under section 6 of the **Port Management Act 1995** in relation to which port lands or port waters or both port lands and port waters have been declared under section 5 of the **Port Management Act 1995**;

**port of entry** means a port or airport;

**port of entry worker** has the meaning in clause 14(1);

**poultry processing facility** has the meaning under the PrimeSafe licence category “poultry meat processing facilities”;

**premises** has the same meaning as in the **Public Health and Wellbeing Act 2008**;

**private hospital** has the same meaning as in the **Visitors to Hospitals and Care Facilities Order**;

**public hospital** has the same meaning as in the **Visitors to Hospitals and Care Facilities Order**;

**Quarantine, Isolation and Testing Order** means the **Pandemic (Quarantine, Isolation and Testing) Order 2021 (No. 1)** as amended or replaced from time to time;

**reasonably practicable** is to have its ordinary and common sense meaning;

**Regional Victoria** means the areas within the State of Victoria that are not part of Metropolitan Melbourne;

**registered facility** means a private hospital or a day procedure centre that is registered with the Department as a "private hospital" or a "day procedure centre";

**representative** in relation to the operator of a construction site means the site manager, the duty holder or a registered builder;

**seafood processing facility** has the meaning under the PrimeSafe licence category “seafood processing facilities”;

**supermarket** has the same meaning as “supermarket business” in the **Food Act 1984**, and includes supermarket distribution and warehousing (including in relation to liquor products) but excludes retail facilities;

**supermarket work premises** means the total of all supermarket distribution facilities;

**Surveillance Testing Industry List and Requirements** means the Department document that lists the industries (as amended from time to time on the advice of the Chief Health Officer) that are required to carry out surveillance testing on their workers, and also sets out the surveillance testing requirements for those listed industries;

*Note: the Surveillance Testing Industry List and Requirements are available at <https://www.health.vic.gov.au/covid-19/surveillance-testing-industry-list-covid-19> as amended from time to time by the Victorian Government.*

**theatre complex** means the suite of rooms at a hospital where medical procedures are performed and ancillary services are conducted;

**urgent elective surgery procedure** means a procedure where admission within 30 days is clinically indicated for a condition that has the potential to deteriorate quickly to the point that it might become an emergency; a procedure that is clinically indicated within 90 days and where the patient's condition may deteriorate quickly and become an emergency if not admitted

within an appropriate time; an urgent non-ESIS procedure including a procedure undertaken for the purposes of cancer diagnosis and early or overdue cancer surveillance and includes a Category 1 elective surgery procedure, a Category 2A elective surgery procedure and a urgent non-ESIS procedure;

**urgent non-ESIS procedure** means a procedure that is a time critical procedure that is not reported via the Elective Surgery Information System where the patient's condition is likely to deteriorate quickly including procedures undertaken for the purposes of cancer diagnosis and early or overdue cancer surveillance;

**vehicle** has the same meaning as in the **Public Health and Wellbeing Act 2008**;

*Note: under the **Public Health and Wellbeing Act 2008**, vehicle includes any means of transport, whether used on land, sea or in the air.*

**visiting health care professional** means a health care worker whose usual place of work is not the facility but who attends to provide health care services to a resident or facility;

**Visitors to Hospitals and Care Facilities Order** means the **Pandemic (Visitors to Hospitals and Care Facilities) Order 2021 (No. 1)** as amended or replaced from time to time;

**Workplace Order** means the **Pandemic (Workplace) Order 2021 (No. 1)** as amended or replaced from time to time;

**work premises** means the premises of an employer in which work is undertaken, including any vehicle whilst being used for work purposes, and including a seasonal work premises;

*Note: a work premises does not include an employee's ordinary place of residence.*

**worker** includes employees, labour hire, subcontractors (and their employees), volunteers and any other person engaged or permitted by an employer to perform work.



**Martin Foley MP, Minister for Health**

15 December 2021