

South Australia

Emergency Management (Residential Aged Care Facilities No 14) (COVID-19) Direction 2020

under section 25 of the *Emergency Management Act 2004*

Preamble

- 1 On 22 March 2020 I, Grantley Stevens, Commissioner of Police, being State Co-ordinator for the State of South Australia pursuant to section 14 of the *Emergency Management Act 2004* (the *Act*), declared pursuant to section 23 of the Act that a Major Emergency is occurring in respect of the outbreak of the Human Disease named COVID-19 within South Australia.
- 2 Now I, Grantley Stevens, being of the opinion that this is necessary to achieve the purposes of the Act, give the following directions pursuant to section 25 of the Act.

1—Short title

This direction may be cited as the *Emergency Management (Residential Aged Care Facilities No 14) (COVID-19) Direction 2020*.

2—Revocation of previous direction

- (1) This direction replaces the *Emergency Management (Residential Aged Care Facilities No 13) (COVID-19) Direction 2020*.
- (2) The *Emergency Management (Residential Aged Care Facilities No 13) (COVID-19) Direction 2020* is revoked.

3—Definitions

- (1) In this direction—

care and support visit, in relation to a resident of a RACF, means a visit made to the resident by one person, or 2 persons together, for the purposes of providing care and support to the resident (and includes a visit by a family member or friend of the resident for the purposes of providing social support to the resident);

Department means the Department for Health and Wellbeing (SA);

flexible care subsidy has the same meaning as the *Aged Care Act 1997* of the Commonwealth;

low community transmission zone is comprised of the following:

- (a) the Australian Capital Territory;
 - (b) New South Wales;
 - (c) New Zealand;
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- (c) the Northern Territory;
- (d) Queensland;
- (e) Tasmania;
- (f) Western Australia;

low community transmission zone arrival means a person—

- (a) who arrives in South Australia from the low community transmission zone; and
- (b) who has not, at any time during the period of 14 days immediately before their arrival in South Australia, been in a place other than South Australia or the low community transmission zone;

operator of a RACF means a person who owns, controls or operates the RACF;

personal care worker means a person (whether as an employee or contractor) whose primary role is to support residents with their daily care needs, and may include persons employed in a role such as a personal care assistant or care worker.

prescribed authorised officer means the Chief Executive of the Department, the South Australian Chief Public Health Officer or a deputy Chief Public Health Officer;

prescribed self-quarantine period in relation to a prescribed RACF means a period beginning at the declaration by a prescribed authorised officer of an outbreak in relation to the prescribed RACF, and ending at the time declared by a prescribed authorised officer;

prescribed RACF means an RACF in relation to which a prescribed authorised officer has declared an outbreak, being a single confirmed case of COVID-19 in a resident, staff member or frequent attendee of a RACF;

prospective resident visit means a visit to a RACF by no more than 2 people for no more than 2 hours for the purpose of considering whether a person holding a valid Aged Care Assessment Team approval for residential aged care will become a resident at the facility;

residential aged care facility or **RACF** means a facility at which accommodation, and personal care or nursing care or both, are provided to a person in respect of whom a residential care subsidy or a flexible care subsidy is payable under the *Aged Care Act 1997* of the Commonwealth;

residential care subsidy has the same meaning as in the *Aged Care Act 1997* of the Commonwealth.

- (2) A prescribed authorised officer may make a verbal declaration for the purpose of the definition of **prescribed self-quarantine period** in subclause (1), but must confirm a verbal declaration in writing within 48 hours after making the declaration (although a failure to do so will not affect the validity of the declaration).

4—Prohibition on entry and exceptions

Subject to this direction, a person is prohibited from entering, or remaining on, the premises of a RACF in South Australia unless—

- (a) the person is a resident of the RACF; or
 - (b) the person is an employee, contractor or volunteer of the RACF; or
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- (c) the person's presence at the premises is for the purposes of conducting a prospective resident visit; or
- (d) the person's presence at the premises is for the purposes of providing—
 - (i) goods or services that are necessary for the effective operation of the RACF; or
 - (ii) other professional services at the facility; or
- (e) the person's presence at the premises is for the purposes of providing health, medical or pharmaceutical services to a resident of the RACF; or
- (f) the person's presence at the premises is for the purposes of a care and support visit to a resident of the RACF on a particular day and the visit—
 - (i) is the only care and support visit made to the resident on that day; or
 - (ii) is an additional care and support visit made to the resident on that day approved by the operator of the RACF; or
- (g) the person's presence at the premises is for the purposes of end of life support for a resident of the RACF for whom death is imminent (likely within 2 weeks); or
- (h) the person's presence at the premises is required for the purposes of emergency management or law enforcement; or
- (i) the person's presence at the premises is required for the purposes of regulatory functions or duties, including inspections; or
- (j) the person is a legal practitioner and their presence at the premises is for the purposes of the provision of legal advice or services.

Example—

A legal practitioner entering the premises of a RACF to take instructions from a client who is a resident of the facility or for the purposes of the execution of a will or other testamentary instrument by a client who is a resident of the facility.

5—General limitations relating to persons who may enter RACF

- (1) Despite clause 4, a person referred to in clause 4(b) to (j) must not enter or remain on the premises of a RACF in South Australia if—
 - (a) during the 14 days immediately preceding the entry, the person arrived in South Australia from a place outside South Australia and was not—
 - (i) a low community transmission zone arrival; or
 - (ii) a person ordinarily resident in South Australia at, or near, a South Australian border; or
 - (iii) a person ordinarily resident in Victoria within 70 km of a South Australian border; or

- (b) —
 - (i) during the 14 days immediately preceding the entry, the person had known contact, other than contact during which the person wore appropriate personal protective equipment, with a person who has a confirmed case of COVID-19; or
 - (ii) the person has a temperature higher than 38 degrees Celsius, or has a history of fever or chills in the preceding 72 hours, or symptoms of acute respiratory infection or loss of taste and smell; or
 - (c) the person has not been vaccinated against 2020 seasonal influenza; or
 - (d) the person has undertaken a COVID-19 test and is awaiting the test result, unless the person submitted to the COVID-19 test in accordance with routine testing required to be undertaken under a direction under the *Emergency Management Act 2004* relating to cross border travel.
- (2) Subclause (1) does not apply to prevent a person employed or engaged in the provision of emergency services from entering or remaining on the premises of a RACF in the event of an emergency.
- (3) Despite subclause (1)(a), a person referred to in that paragraph may enter and remain on the premises of a RACF under clause 4(g), provided that the person—
- (a) wears appropriate personal protective equipment while on the premises of the RACF; and
 - (b) self-quarantines during any period during which they are not on the premises of the RACF.
- (4) Subclause (1)(c) does not apply—
- (a) to a person who has a medical contraindication to the influenza vaccine (such as a person who has a history of anaphylaxis, or has had Guillain-Barré Syndrome, following vaccination, or who is taking checkpoint inhibitor medication for cancer treatment); or
 - (b) to an employee or contractor of a RACF that is not able to access an adequate supply of the influenza vaccine, provided that the operator of the RACF—
 - (i) notifies the Department as soon as is reasonably practicable of the fact that the RACF is not able to access an adequate supply of the influenza vaccine; and
 - (ii) takes all reasonable steps to access an adequate supply as soon as is reasonably practicable; or
 - (c) to a person referred to in clause 4(g) who is not able to access the influenza vaccine before their visit to the RACF and who takes all reasonable steps to access the influenza vaccine as soon as practicable after their initial visit; or
 - (d) to a child aged 6 months or less.
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6—Additional limitations relating to certain persons

- (1) Despite clause 4 but without limiting clause 5, the following provisions apply in relation to RACFs in South Australia:
 - (a) a personal care worker who provides personal care to a resident (whether as an employee or contractor) at a RACF (the *first RACF*) must not provide personal care to a resident at another RACF within 14 days of providing personal care to a resident at the first RACF;
 - (b) a person who provides nursing, medical, allied health or personal care services to a resident at a RACF must wear appropriate personal protective equipment, in accordance with the Australian Guidelines, at any time that they are providing those services and cannot maintain a distance of more than 1.5 metres from the resident;
 - (c) a person who provides personal care or nursing care to a resident (whether as an employee or contractor) at a RACF must not enter or remain on the premises of a RACF, unless the person has completed COVID-19 infection control training of a kind, frequency and by a date determined by the Department;
 - (d) the operator of a RACF must—
 - (i) keep records of completion of COVID-19 infection control training by persons referred to in paragraph (c) employed or engaged by the RACF; and
 - (iii) provide such records to an authorised officer on request.
- (2) In this clause—

Australian Guidelines means the *Australian Guidelines for the Prevention and Control of Infection in Healthcare 2019* (as in force from time to time);

authorised officer means—

- (a) an authorised officer appointed under the *Emergency Management Act 2004*; or
- (b) an authorised officer appointed under the *South Australian Public Health Act 2011*.

7—Operator of RACF—Workforce Management Plan

- (1) The operator of a RACF in South Australia must adopt a Workforce Management Plan that—
 - (a) requires employees, contractors and volunteers of the RACF to notify the operator of the RACF of their additional place of employment (if relevant); and
 - (b) requires employees, contractors and volunteers of the RACF to notify the operator of the RACF if they become aware of a COVID-19 case identified at their additional place of employment.

Note—

This requirement is to assist with contact tracing if an identified case of COVID-19 is confirmed.

- (2) The operator of a RACF must—
 - (a) keep records of notifications given under this clause; and
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- (b) provide such records to an authorised officer (within the meaning of clause 6) on request.

8—Operator of RACF—COVID-19 Infection Control Plan

- (1) The operator of a RACF in South Australia must ensure that a COVID-19 Infection Control Plan relating to all communal areas at the RACF is approved in accordance with this clause.
- (2) For the purposes of subclause (1), the operator of a RACF must, on or before 27 August 2020, submit a COVID-19 Infection Control Plan to the Department (in such manner and form as is determined by the Department).
- (3) The Department may approve a COVID-19 Infection Control Plan submitted under this clause.
- (4) A COVID-19 Infection Control Plan approved under this clause may be published by the Department.
- (5) The operator of a RACF must ensure that a COVID-19 Infection Control Plan approved under this clause is kept available for inspection by authorised officers and any persons entering the RACF.
- (6) In this clause—

authorised officer means an authorised officer appointed under the *Emergency Management Act 2004* or an authorised officer appointed under the *South Australian Public Health Act 2011*.

communal area includes any area at an RACF where multiple persons (including, for example, employees, contractors and visitors) may come into contact with each other (including, for example, meal areas and locker rooms).

9—Operator of RACF—other requirements etc

- (1) The operator of a RACF in South Australia must take all reasonable steps to ensure that a person does not enter or remain on the premises of the RACF if the person is prohibited from doing so under this direction.
- (2) The operator of a RACF must ensure that a resident of the RACF who has undertaken a COVID-19 test remains isolated and segregated from other persons in accordance with the directions of an authorised officer until the result of the test is known.

Note—

Another direction under the *Emergency Management Act 2004* requires a person to remain isolated and segregated from other persons on being diagnosed with COVID-19.

- (3) The operator of a RACF must ensure that any person providing care to a resident at a RACF who is awaiting a COVID-19 test result wears appropriate personal protective equipment, in accordance with the Australian Guidelines, when providing care to that resident until the result of the test is known.
 - (4) Nothing in this direction is to be taken to prevent a RACF from accommodating new residents (whether on a permanent basis or for respite care).
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10—Self-quarantine for residents of a prescribed RACF and certain carers

- (1) Despite any other clause of this Direction, a resident of a prescribed RACF must not leave the premises of the RACF during a prescribed self-quarantine period.
- (2) Sub-clause (1) does not apply to a resident who leaves the premises of a prescribed RACF—
 - (a) for urgent medical or dental treatment; or
 - (b) for transfer to hospital; or
 - (c) for transfer to another RACF determined to be suitable by an authorised officer; or
 - (d) in order to self-quarantine at another location, including a family home, approved by an authorised officer.

Note—

Nothing in subclause (2) authorises the provision of treatment to a person that is contrary to an Advance Care Directive applying to that person.

- (3) A resident of a prescribed RACF to whom paragraph (d) of subclause (2) applies must reside and remain at the approved location during the prescribed self-quarantine period, quarantined and segregated from other persons, except—
 - (a) to obtain or receive urgent medical or dental treatment; or
 - (b) for transfer to hospital; or
 - (c) for transfer to a RACF determined to be suitable by an authorised officer; or
 - (d) to the extent that close contact with a family member residing in the same premises is necessary in order to provide food and essential care to the person.
- (4) A person who has close contact with a resident for the purpose identified in paragraph (d) of subclause (3), or with another person identified in this subclause, must also reside and remain at the approved location during the prescribed self-quarantine period, quarantined and segregated from other persons, subject to the exceptions in subclause (3).
- (5) For the purposes of subclause (4)—

close contact with another person occurs if they are in the company of the other person—

 - (a) within an enclosed space for a period of 2 hours or longer; or
 - (b) within 1.5 metres of the other person for a period of 15 minutes or longer.

Note—

Subclause (4) means that another person living at the same location must also self-quarantine at that location if they do not have close contact with the resident during the prescribed self-quarantine period but have close contact with the person providing care to the resident.

11—Exemptions

A prescribed authorised officer may, if satisfied that exceptional circumstances exist, exempt (conditionally or unconditionally) a person or class of persons from this direction or a provision of this direction.

12—Powers of authorised officers

Nothing in this direction derogates from the powers of authorised officers to exercise powers pursuant to the Act.

IMPORTANT— IT IS AN OFFENCE TO BREACH THIS DIRECTION

This direction operates from the day of 2020 at..... hours

SIGNED at on this day of 2020
at.....hours

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GRANTLEY STEVENS
STATE CO-ORDINATOR