

South Australia

Emergency Management (Residential Aged Care Facilities No 3) (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 3) (COVID-19) Direction 2020*.

2—Revocation of previous direction

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

3—Definitions

In this direction—

care and support visit, in relation to a resident of a residential aged care facility, 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;

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

operator of a residential aged care facility means a person who owns, controls or operates the residential aged care facility;

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

residential aged care facility 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.

4—Directions

- (1) Subject to this clause and clause 5, a person is prohibited from entering, or remaining on, the premises of a residential aged care facility in the State of South Australia unless—
- (a) the person is a resident of the residential aged care facility; or
 - (b) the person is an employee or contractor of the residential aged care facility; or
 - (c) the person's presence at the premises is for the purposes of providing goods or services that are necessary for the effective operation of the residential aged care facility; or
 - (d) the person's presence at the premises is for the purposes of providing health, medical or pharmaceutical services to a resident of the residential aged care facility; or
 - (e) the person's presence at the premises is for the purposes of a care and support visit to a resident of the residential aged care facility on a particular day, and is the only care and support visit made to the resident on that day; or
 - (f) the person's presence at the premises is for the purposes of end of life support for a resident of the residential aged care facility; or
 - (g) the person's presence at the premises is required for the purposes of emergency management or law enforcement; or
 - (h) the person's presence at the premises is required for the purposes of regulatory functions or duties, including inspections; or
 - (i) 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 residential aged care facility 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.

- (2) Despite subclause (1), a person referred to in subclause (1)(b) to (i) must not enter or remain on the premises of a residential aged care facility in the State of South Australia if—
- (a) during the 14 days immediately preceding the entry, the person arrived in South Australia from a place outside South Australia; or

- (b) during the 14 days immediately preceding the entry, the person had known contact, other than contact during which the person wore adequate personal protective equipment, with a person who has a confirmed case of COVID-19, or the person has a temperature higher than 38 degrees celsius or symptoms of acute respiratory infection; or
 - (c) from 1 May 2020—the person has not been vaccinated against 2020 seasonal influenza; or
 - (d) the person is aged under 16 years, other than in circumstances where the person's presence at the premises is for the purposes of end of life support for a resident of the residential aged care facility.
- (3) Subclause (2) 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 residential aged care facility in the event of an emergency.
- (4) Subclause (2)(a) does not apply to a person who enters or remains on the premises of a residential aged care facility under subclause (1)(f), provided that the person self-quarantines during any period during which they are not on the premises of the facility.
- (5) Subclause (2)(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 residential aged care facility that is not able to access an adequate supply of the influenza vaccine by 1 May 2020, provided that the operator of the residential aged care facility—
 - (i) notifies the Department for Health and Wellbeing, within 2 business days of 1 May 2020, of the fact that the residential aged care facility 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 after 1 May 2020.
- (6) The operator of a residential aged care facility in the State of South Australia must take all reasonable steps to ensure that a person does not enter or remain on the premises of the residential aged care facility if the person is prohibited from doing so under subclause (1) or (2).
- (7) Subject to subclause (8), a resident of a residential aged care facility who leaves the premises of the residential aged care facility after this direction commences operation is prohibited from re-entering those premises.
- (8) Subclause (7) does not apply to—
 - (a) a resident who leaves the premises of a residential aged care facility—
 - (i) for medical or dental treatment of the resident; or
 - (ii) to attend the funeral of a member of the resident's immediate family; or
 - (b) a resident who—

- (i) has dementia or another cognitive impairment (such that the resident does not understand this direction or the consequences of leaving); and
 - (ii) inadvertently leaves the premises of a residential aged care facility; or
- (c) a resident who has no safe alternative accommodation.
- (9) Nothing in this direction is to be taken to prevent a residential aged care facility from accommodating new residents (whether on a permanent basis or for respite care).

5—Exemptions

A prescribed authorised officer may, if satisfied that exceptional circumstances exist, exempt (conditionally or unconditionally) a person or class of persons from clause 4 or a provision of clause 4.

6—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 21st day of April, 2020 at 0845 hours

SIGNED at ADELAIDE on this 21st day of April, 2020 at 0845 hours



GRANTLEY STEVENS
STATE CO-ORDINATOR