

South Australia

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

under section 25 of the *Emergency Management Act 2004*

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### 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.

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### 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 21<sup>st</sup> day of April, 2020 at 0845 hours

SIGNED at ADELAIDE on this 21<sup>st</sup> day of April, 2020 at 0845 hours



GRANTLEY STEVENS  
STATE CO-ORDINATOR