

### **Victorian Acting Chief Health Officer issues *COVID-19 Mandatory Vaccination (Workers) Directions***

Further to yesterday's [Bulletin](#), at 11:59pm last night, **7 October 2021**, Victoria's Acting Chief Health Officer issued [COVID-19 Mandatory Vaccination \(Workers\) Directions](#) (the Directions) giving legal effect to the Victorian Premier's announcement of 1 October 2021.

**The Directions confirm that from 15 October 2021, employers must not allow anyone covered by the worker-specific categories contained in clause 9 of the Directions to work away from their home unless:**

- they have received their first COVID-19 vaccination, or
- have made an appointment to receive their first COVID-19 vaccine dose by the first dose deadline of **22 October 2021**, or
- an exemption or exception applies.

The worker-specific categories contained in clause 9 of the Directions are based on the Authorised Providers and Workers List - and **cover workers who work in connection with** the categories provided. The following automotive industry businesses are covered:

- Petrol stations, including a petrol station that sells groceries - clause 9(28)(d)(vii)
- Vehicle and mechanical repair services - clause 9(27)(a)(viii)
- Retail facility providing a 'click and collect/deliver' service – clause 9(28)(d)(x)
- Retail workers working in or in connection with a retail facility or a wholesale or distribution facility – clause 9(28)(e)
- Roadside assistance services – clause 9(27)(a)(vi)
- Carwashing services – clause 9(27)(a)(iii)
- Food and drink facilities – clause 9(28)(d)(iv)
- Manufacturing machinery and equipment manufacturing, including parts – clause 9(15)(a)(ix)
- Manufacturing whole or partial products – clause 9(15)(xii)

#### **Notification requirements**

The Directions also confirm that an **employer must as soon as is reasonably practicable inform each worker (including new workers)** who is, or may be, scheduled to work outside the worker's home on or after **15 October 2021** that:

- Clause 4 of the Directions obliges the employer to **collect, record and hold vaccination information about the worker**; and
- Sub-clause (1) obliges the employer, on and after **15 October 2021**, not to permit a worker who is **unvaccinated** to work for that employer outside the worker's ordinary place of residence unless an exception applies under these directions.

VACC has provided a template notification for members to provide to their workers [here](#). A word file can be downloaded [here](#).

## Exceptions and exemptions

The limited exceptions and exemptions to these requirements are as follows:

- An unvaccinated person may work between the 15 October 2021 and 22 October 2021, provided they have a **booking to receive** their first dose of a COVID-19 vaccine by **22 October 2021**; or
- An unvaccinated person who is unable to receive their first dose of a COVID-19 vaccine by 22 October 2021 due to being in **self-quarantine** under the *Diagnosed Persons and Close Persons Directions* – provided that they have a booking to receive a first dose of a COVID-19 vaccine **within 7 days of the end of the self-quarantine period**; or
- In **exceptional circumstances** as provided in **clause 6** of the Directions, including where a worker is required to respond to an **emergency** or to perform **urgent and essential** work; or
- A person is an **excepted person** – meaning they hold **certification from a medical practitioner** that they are unable to be vaccinated due to a **medical contraindication or an acute medical illness**.

## Collection of vaccination information

An employer of a worker who is, or may be, scheduled to work outside the worker's ordinary place of residence on or after **15 October 2021** must collect, record and hold vaccination information about the worker.

The **employer is authorised under the Directions** to use any vaccination information it holds about a worker for the purposes of complying with its obligations.

If the worker is **not fully vaccinated**, the employer must collect, record and hold information about **whether the worker has a booking to receive**:

- their **first dose by 22 October 2021** if currently unvaccinated
- their **second dose by 26 November 2021** if currently partially vaccinated (i.e. one dose)

For the purposes of the Directions, a worker's **vaccination status** is 'fully vaccinated', 'partially vaccinated', 'unvaccinated', or an 'excepted person'.

If an employer **does not hold** vaccination information about a worker, the employer **must treat** the worker as if they are **unvaccinated**.

An **Authorised Officer** may request an employer to produce any vaccination information held by the employer in compliance with the Directions.

## Frequently Asked Questions - FAQs

### Who will be responsible for enforcing vaccination requirements?

Employers of workers in these listed categories are responsible for complying with these vaccination requirements and must collect, record and hold vaccination information for any worker going on-site for work. From 15 October 2021, employers must not allow anyone who is working away from home who has not received their first vaccination or made an appointment to receive their first dose by 22 October (or who isn't exempt) to work on site.

### What evidence of vaccination status needs to be provided by the worker?

Evidence of vaccination status can include:

- Immunisation history statement available from Medicare
- [MyGov COVID-19 digital certificate](#)
- My Health Record and Medicare online account
- Document or proof of relevant medical exemption

It is expected that the Victorian Government will update the Service Victoria app to provide the option of proving vaccination status later this month.

In the period before an employee's immunisation history is updated, evidence of vaccination can also include a recent booking confirmation email, or the card received at the time of vaccination.

### **I have an employee that won't get vaccinated. What am I required to do?**

If the employee does not have a medical exemption, the employer is required to take reasonable steps to prevent entry of unvaccinated workers, or workers who choose to not disclose their vaccination status.

Employers are encouraged to consult with the employee to try to understand the reason for the refusal – and if appropriate, encourage the employee to obtain information from their GP. If working from home is not an option, the employer might consider offering the employee the option of taking a period of accrued annual leave or long service leave – or unpaid leave – for the purposes of reconsidering their position. It should be noted **stand down is not applicable** in these circumstances.

Ultimately, the requirement to be vaccinated in accordance with the Directions will be an **inherent requirement of their employment**. As such, a refusal to comply – or to comply with a lawful and reasonable instruction of the employer pursuant to the Directions – will provide grounds for ending the employment relationship. Members are strongly encouraged to seek advice and assistance from the IR Department before taking steps to end the employment relationship, to ensure the process is undertaken in a lawful and procedurally fair manner.

### **What happens if I allow an unvaccinated worker on site to continue working?**

You face a penalty of up to 120 penalty units (\$21,808) if you are an individual - or a penalty of up to 600 penalty units (\$109,044) if you are a corporation.

### **My employee is claiming they have a medical exemption. What evidence do I need to see?**

Medical exemptions are determined by [ATAGI clinical guidance](#). You must sight and record evidence (e.g. medical certificate or a letter) from one of the following authorised medical practitioners:

- general practice registrars on an approved 3GA training placement
- public health physicians
- general physicians
- infectious disease physicians
- clinical immunologists
- gynaecologist
- obstetrician
- GPs who are vocationally registered
- GP who is a fellow of the Royal Australian College of General Practitioners
- GP who is a fellow of the Australian College of Rural and Remote Medicine

### **What happens if the worker provides me with false or misleading evidence about their vaccination status?**

If a worker provides false or misleading information about their vaccination status they may be fined up to \$10,904.40 as an individual.

### **Does the vaccine requirement apply to contractors?**

The vaccine requirement will still apply if the worker is a contractor and they are doing contract work on-site.

### **Do authorised workers in regional Victoria need to be vaccinated?**

Yes. These requirements apply statewide.

## How long will this vaccination requirement last?

It is not currently known how long the vaccination requirements will last.

The Directions have a current nominal end date of 11:59pm on 21 October 2021. This in line with the current [extension](#) of the **Declaration of the State of Emergency** – which has been extended every four weeks since it was first declared on 16 March 2020. Currently, extensions to the current **State of Emergency** can continue until **11:59pm on 15 December 2021** – however, it is understood that Victorian Parliament will move to ensure **continued application into 2022**, including necessary amendments to the Victorian *Public Health and Wellbeing Act 2008*.

Members seeking further advice or assistance are encouraged to contact VACC's Workplace Relations team on 03 9829 1123 or [ir@vacc.com.au](mailto:ir@vacc.com.au).

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