

*Public and Environmental Health Act 2011*

**COVID-19 Directions (No. 55) 2021 as amended by COVID-19  
Directions (No.81) 2021**

**Directions for mandatory vaccination of workers to attend the  
workplace**

I, Hugh Crosbie Heggie, Chief Health Officer, under section 52 of the *Public and Environmental Health Act 2011* (the **Act**), consider it necessary, appropriate or desirable to take action to alleviate the public health emergency in the Territory, declared by instrument entitled "Declaration of Public Health Emergency", dated 18 March 2020, (the **public health emergency declaration**), by making the following directions:

**Part 1 Preliminary matters**

- 1 These Directions take effect at 12:00 (noon) on 13 October 2021 and remain in force while the public health emergency declaration is in force.

*Note for direction 1*

*These Directions will remain in force during any subsequent extensions of the duration of that declaration, which may be made under section 50(2) of the Act.*

- 2 In these Directions:

**approved** means approved by me.

**person conducting a business or undertaking**, see direction 2A.

**vulnerable person**, means a person who is considered, under direction 3, to be vulnerable to infection with COVID-19.

**worker**, see section 7 of the *Work Health and Safety (National Uniform Legislation) Act 2011*.

*Note for definition worker*

*An individual who conducts a business or undertaking is also a worker if the individual carries out work in that business or undertaking.*

- 2A For these Directions, a ***person conducting a business or undertaking***:
- (a) has the same meaning as in section 5 of the *Work Health and Safety (National Uniform Legislation) Act 2011*; and
  - (b) includes an incorporated association of volunteers.
- 2B These Directions do not apply in relation to workers at consulates or diplomatic premises.
- 3 A person is considered to be vulnerable to infection with COVID-19 if:
- (a) the person is under 12 years of age; or
  - (b) the person cannot be vaccinated with an approved COVID-19 vaccine due to a contraindication to all approved COVID-19 vaccines; or
  - (c) the person is an Aboriginal person; or
  - (d) the person is at risk of severe illness from COVID-19 for medical reasons, such as being on immune suppressive therapy after an organ transplant or having chronic kidney, heart, liver or lung disease.

*Note for direction 3*

*For more information on vulnerable persons see:*

<https://www.health.gov.au/news/health-alerts/novel-coronavirus-2019-ncov-health-alert/advice-for-people-at-risk-of-coronavirus-covid-19>

- 4 These Directions apply to the following workers:
- (a) a worker who, during the course of work, is likely to come into contact with a vulnerable person;
  - (b) a worker who is at risk of infection with COVID-19 because the worker, during the course of work, is likely to come into contact with a person or thing that poses a risk of infection;
  - (c) a worker whose workplace poses a high risk of infection with COVID-19;
  - (d) a worker who performs work that is necessary for the operation or

maintenance of essential infrastructure or essential logistics in the Territory.

*Note for direction 4(a)*

*To determine whether a person is a vulnerable person, a worker can ask the person directly or assume they are vulnerable if the worker is unsure. If a person does not disclose their vaccination status to a worker, the worker should assume the person is vulnerable.*

- 5 The provisions of the Schedule are to be used in determining whether these Directions apply to a worker under direction 4.

## **Part 2 Vaccination for attendance at workplace**

- 6 For the period starting on 13 November 2021 and ending on 24 December 2021, a worker who has not received the first dose of an approved COVID-19 vaccine must not attend the worker's workplace.

- 7 On and from 25 December 2021, a worker who has not received 2 doses of an approved COVID-19 vaccine must not attend the worker's workplace.

*Note for direction 7*

*It is expected that a third dose will be required for these workers in 2022. These Directions will be amended to add that requirement when the medical advice is more definite.*

- 8 Despite directions 6 to 7, a worker may attend the worker's workplace without being vaccinated with an approved COVID-19 vaccine if the worker has evidence of a contraindication to all approved COVID-19 vaccines.

- 9 The evidence required for direction 8 is a certificate issued by the Commonwealth that certifies that the worker has a permanent or temporary contraindication to all approved COVID-19 vaccines.

*Note for direction 9*

*For the ATAGI guidelines current at the time of making these Directions see:*

*<https://www.health.gov.au/sites/default/files/documents/2021/09/covid-19-vaccination-atagi-clinical-guidance-on-covid-19-vaccine-in-australia-in-2021.pdf>*

*<https://www.health.gov.au/sites/default/files/documents/2021/10/atagi-expanded-guidance-on-temporary-medical-exemptions-for-covid-19-vaccines.pdf>*

- 10 A person conducting a business or undertaking must ensure that any worker who performs work for the person does not attend the worker's workplace contrary to directions 6 and 7.
- 11 Nothing in these Directions prevents a worker who is not vaccinated as specified in directions 6 and 7 or exempt from vaccination under direction 8 from working at a place where the worker, during the course of work:
- (a) is not likely to come into contact with a vulnerable person; and
  - (b) is not likely to come into contact with a person or thing that poses a risk of infection with COVID-19; and
  - (c) is not likely to be exposed to a high risk of infection with COVID-19.
- 12 Nothing in these Directions prevents a person conducting a business or undertaking from making reasonable adjustments to accommodate a worker who is not vaccinated as specified in directions 6 and 7.

*Example for direction 12*

*Directing the worker to attend another workplace where the worker is not likely to come into contact with a vulnerable person or be exposed to a high risk of infection.*

### **Part 3 Verification measures**

- 13 A person conducting a business or undertaking must take reasonable steps to determine the extent to which any worker who performs work for the person is vaccinated with an approved COVID-19 vaccine.

*Note for direction 13*

*This involves determining whether the worker is fully vaccinated, has received a first dose or is unvaccinated. Viewing a completed appointment slip or a medical certificate for the first dose or a digital certificate for full vaccination on a mobile phone would be sufficient. See also: <https://www.health.gov.au/initiatives-and-programs/covid-19-vaccines/certificates>*

- 14 A worker must, on request by the person conducting a business or undertaking for whom they work, provide evidence the person needs to determine the extent to which the worker is vaccinated with an approved COVID-19 vaccine.

- 15 A person conducting a business or undertaking must keep a register of the following information:
- (a) the extent to which each worker who performs work for the person is vaccinated with an approved COVID-19 vaccine;
  - (b) the steps taken to comply with direction 13.
- 16 A person conducting a business or undertaking must:
- (a) destroy any copy of the evidence given to the person under direction 14 as soon as practicable, but in any case no later than 48 hours after the evidence is given; and
  - (b) ensure that the register kept under direction 15 is secured against access by any person for any purpose other than a person or purpose specified in paragraph (c); and
  - (c) ensure that any information in the register kept under direction 15 is not disclosed, except to an authorised officer when requested for the purpose of compliance or enforcement of these Directions or contact tracing in relation to COVID-19.
- 17 For these Directions, a person conducting a business or undertaking and an authorised officer may request, collect, use and disclose immunisation information that is protected information under section 22(2) of the *Australian Immunisation Register Act 2015* (Cth).

#### **Part 4 Volunteers, contractors, subcontractors and other workers**

- 17A The duties of a person conducting a business or undertaking under directions 10, 13 and 15 do not apply in relation to the following workers:
- (a) a volunteer who does not work directly for the person;
  - (b) a contractor or subcontractor;
  - (c) an employee of a contractor or subcontractor;
  - (d) an employee of a labour hire company who has been assigned

to work in the person's business or undertaking.

*Note for direction 17A*

*The employer of these workers is responsible for ensuring compliance with directions 6 and 7, collecting this information and keeping the register.*

*Notes for COVID-19 Directions*

- 1 *Section 56 of the Act provides for an offence for failing to comply with a direction given by me under section 52 of the Act.*
- 2 *The maximum penalty for this offence is 400 penalty units.*
- 3 *A person is not guilty of this offence if the person has a reasonable excuse.*
- 4 *An infringement notice may be given for failing to comply these Directions with a fine equal to 32 penalty units for an individual and 160 penalty units for a body corporate.*

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Chief Health Officer

Dated

## **Schedule            Provisions to interpret whether these Directions apply to worker**

direction 5

- 1        For direction 4(a), workers who, during the course of work, are likely to come into contact with a vulnerable person include the following:
- (a) workers who work with children, such as teachers, child care workers, tutors, gym coaches and swimming instructors;
  - (b) workers who work with disabled persons, elderly persons or other persons vulnerable to infection with COVID-19, such as legal service providers, disability care workers and personal carers;
  - (c) workers who directly face customers or patients in health care and ancillary health care services;
  - (d) workers who work in a community consisting of mostly Aboriginal people;
  - (e) workers who provide community services;
  - (f) workers who directly face customers in retail services, financial or hospitality industries and other service industries.

*Note for item 1(d)*

*This includes family outstations and town camps.*

- 2        For direction 4(b), workers who are at risk of infection with COVID-19 because they, during the course of work, are likely to come into contact with a person or thing that poses a risk of infection include the following:
- (a) health care workers in hospitals and emergency departments;
  - (b) police and emergency service workers;
  - (c) workers in quarantine facilities or other quarantine places;
  - (d) border control workers;
  - (e) workers at other places to which symptomatic people may go,

such as medical clinics, respiratory clinics and pharmacies.

- 3 For direction 4(c), workplaces that pose a high risk of infection with COVID-19 include the following:
  - (a) correction and detention facilities;
  - (b) shelters for persons experiencing homelessness or other forms of adversity;
  - (c) mining sites;
  - (d) food processing and distribution facilities;
  - (e) cold storage facilities and abattoirs;
  - (f) cruise vessels as defined in direction 5 of my COVID-19 Directions (No. 5) 2021.
  
- 4 For direction 4(d), essential infrastructure or essential logistics in the Territory include:
  - (a) electricity generation facilities, electricity networks and electrical installations;
  - (b) liquid natural gas and other gas facilities;
  - (c) water supply and distribution infrastructure;
  - (d) sewerage treatment facilities;
  - (e) telecommunications systems;
  - (f) roads;
  - (g) COVID-19 emergency operations centre.