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Public Health and Wellbeing Act 2008

Section 200

DIRECTIONS FROM CHIEF HEALTH OFFICER IN ACCORDANCE WITH
EMERGENCY POWERS ARISING FROM DECLARED STATE OF EMERGENCY

COVID-19 Mandatory Vaccination (Workers) Directions (No. 3)

I, Adjunct Clinical Professor Brett Sutton, Chief Health Officer, consider it reasonably necessary to protect public health to give the following directions pursuant to section 200(1)(d) of the **Public Health and Wellbeing Act 2008** (Vic.) (PHW Act):

PART 1 – PRELIMINARY

1 Preamble

- (1) The purpose of these directions is to impose obligations upon employers in relation to the vaccination of **workers**, in order to limit the spread of severe acute respiratory syndrome coronavirus 2 (**SARS-CoV-2**) within the population of those workers.
- (2) Key definitions are contained in clause 8.
- (3) Worker-specific definitions are contained in clause 9.
- (4) Other definitions are contained in clause 10.
- (5) These directions must be read together with the **Directions currently in force**.
- (6) These directions replace the **COVID-19 Mandatory Vaccination (Workers) Directions**.

2 Citation

These directions may be referred to as the **COVID-19 Mandatory Vaccination (Workers) Directions (No. 3)**.

3 Commencement and revocation

- (1) These directions commence at 11:59:00 pm on 15 October 2021 and end at 11:59:00 pm on 21 October 2021.
- (2) The **COVID-19 Mandatory Vaccination (Workers) Directions (No. 2)** are revoked at 11:59:00 pm on 15 October 2021.

PART 2 – EMPLOYER OBLIGATIONS

4 Employer must collect, record and hold vaccination information

Vaccination information

- (1) If a worker is, or may be, scheduled to work outside the worker's ordinary place of residence on or after the **relevant date**, the employer of the worker must collect, record and hold **vaccination information** about the worker.

Booking information – partially vaccinated and unvaccinated workers

- (2) If the employer collects information that a worker is **partially vaccinated**, the employer must also collect, record and hold information about whether that worker has a booking to receive, by the **second dose deadline**, a dose of a **COVID-19 vaccine** that will cause the worker to become **fully vaccinated**.
- (3) If the employer collects information that a worker is **unvaccinated**, the employer must also collect, record and hold information about whether that worker has a booking to receive, by the **first dose deadline**, a dose of a **COVID-19 vaccine** that will cause the worker to become **partially vaccinated**.

SPECIAL

Timing

- (4) An employer must comply with the obligations in subclauses (1) to (3) as soon as reasonably practicable after the commencement of these directions.

Exception

- (5) Subclauses (1) to (4) do not apply if the employer already holds vaccination information about a worker who is, or may be, scheduled to work outside the worker's ordinary place of residence on or after the relevant date.

5 **Employer must ensure unvaccinated workers do not work outside ordinary place of residence**

No work outside ordinary place of residence

- (1) On or after the relevant date, an employer of a worker must not permit a worker who is unvaccinated to work for that employer outside the worker's ordinary place of residence.
- (2) For the purposes of subclause (1), if an employer does not hold vaccination information about a worker, the employer must treat the worker as if the worker is unvaccinated.

Exception – booking by first dose deadline

- (3) Despite subclause (1), an employer of a worker may, between the relevant date and the first dose deadline, permit a worker who:
- (a) is unvaccinated; and
 - (b) has a booking to receive, by the first dose deadline, a dose of a COVID-19 vaccine that will cause the worker to become partially vaccinated,
- to work for that employer outside the worker's ordinary place of residence.

Exception – self-quarantine

- (4) Despite subclause (1), an employer of a worker may, after the first dose deadline, permit a worker who:
- (a) is unvaccinated; and
 - (b) was unable to become partially vaccinated before the first dose deadline because they were in self-quarantine under the **Diagnosed Persons and Close Contacts Directions**; and
 - (c) has a booking to receive, within 7 days of the end of the period of self-quarantine as determined under the **Diagnosed Persons and Close Contacts Directions**, a dose of a COVID-19 vaccine that will cause the worker to become partially vaccinated,
- to work for that employer outside the worker's ordinary place of residence.

Authorisation to use vaccination information

- (5) For the purposes of complying with this clause, an employer is authorised to use any information about a worker that it holds under clause 4.

Notification to current workers

- (6) An employer of a worker must, as soon as reasonably practicable after the commencement of these directions, inform each worker who is, or may be, scheduled to work outside the worker's ordinary place of residence on or after the relevant date that:
- (a) clause 4 obliges the employer to collect, record and hold vaccination information about the worker; and
 - (b) subclause (1) obliges the employer, on and after the relevant date, 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.
- (7) Subclause (6) does not apply if the employer has previously notified the worker of the matters specified in that subclause under a previous version of these directions.

Notification to new workers

- (8) If an employer engages a worker who is, or may be, scheduled to work outside the worker's ordinary place of residence on or after the relevant date, the employer must inform the worker, as soon as reasonably practicable after engaging the worker that:
- (a) clause 4 obliges the employer to collect, record and hold vaccination information about the worker; and
 - (b) subclause (1) obliges the employer, on and after the relevant date, 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.

6 Exception – exceptional circumstances

- (1) An employer of a worker is not required to comply with clauses 4 and 5 if one or more of the exceptional circumstances specified in subclause (2) applies.
- (2) The exceptional circumstances are:
- (a) a worker is required to perform work or duties that is or are necessary to provide for urgent specialist clinical or medical care due to an **emergency situation** or a **critical unforeseen circumstance**; or
 - (b) a worker is required to fill a vacancy to provide urgent care, to maintain quality of care and/or to continue essential operations due to an emergency situation or a critical unforeseen circumstance; or
- Example 1: a large number of workers furloughed due to exposure at a Tier 1 site.*
- Example 2: a medical practitioner is required to work outside their ordinary place of residence on short notice due to an emergency situation.*
- (c) a worker is required to respond to an emergency; or
 - (d) a worker is required to perform urgent and essential work to protect the health and safety of workers or members of the public, or to protect assets and infrastructure; or
 - (e) an education worker that is required to:
 - (i) carry out assessments of an oral or performance examination as part of the Victorian Certificate of Education or International Baccalaureate; or
 - (ii) work as a venue coordinator for those examinations.
- (3) If a circumstance specified in subclause (2) applies, the employer must take all reasonable steps to ensure that the worker does not work outside the worker's ordinary place of residence for any longer than the period of time necessary to respond to the exceptional circumstance.

7 Disclosure to Authorised Officers

- (1) An **Authorised Officer** may request an employer to produce to the Authorised Officer any vaccination information held by the employer under clause 4.
- (2) If an Authorised Officer makes a request to a person under subclause (1), the person must comply with the request.

Note: Authorised Officers may also be authorised to exercise the public health risk power in section 190(1) (d) of the PHW Act to require the provision of any information needed to investigate, eliminate or reduce the risk to public health.

PART 3 – DEFINITIONS**8 Key definitions***Vaccination status*

- (1) A person's **vaccination status** is one of the following:
- (a) **fully vaccinated**; or
 - (b) **partially vaccinated**; or

- (c) **unvaccinated**; or
 - (d) **excepted person**.
- (2) A person is **fully vaccinated** if the person has received two doses of a COVID-19 vaccine.
- (3) A person is **partially vaccinated** if the person has received one dose of a COVID-19 vaccine and is not an **excepted person**.
- (4) A person is **unvaccinated** if the person has not received a dose of a COVID-19 vaccine and is not an **excepted person**.
- (5) A person is an **excepted person**:
- (a) if the person holds certification from a **medical practitioner** that the person is unable to receive a dose, or a further dose, of a COVID-19 vaccine due to a medical contraindication; or
 - (b) if the person holds certification from a medical practitioner that the person is unable to receive a dose, or a further dose, of a COVID-19 vaccine due to an acute medical illness (including where the person has been diagnosed with SARS-CoV-2).
- (6) A certification for the purpose of subclause (5)(b) is effective until the earlier of:
- (a) the date specified by the medical practitioner; or
 - (b) the date 6 months from the date the certification was given by the medical practitioner.

Vaccination information

- (7) For the purposes of these directions, **vaccination information** is information about a person's vaccination status and includes information that is derived from a record of information that was made under, or in accordance with, the **Australian Immunisation Register Act 2015** of the Commonwealth.

Note: Vaccination information may be recorded in a variety of documents, such as a letter from a medical practitioner, a certificate of immunisation or an immunisation history statement obtained from the Australian Immunisation Register.

Employers and workers

- (8) For the purpose of these directions:
- (a) **employer** in relation to a **worker** means:
 - (i) the person who employs or engages the worker; or
 - (ii) if the worker is self-employed—the worker.
 - (b) **worker** means a person identified in Column 1 of Schedule 1, whether paid or unpaid, but does not include:
 - (i) a Commonwealth **employee**;
 - (ii) a worker who works in connection with proceedings in a **court**, where that work cannot be done from the person's ordinary place of residence; or
 - (iii) a person under 12 years of age.

Dates

- (9) For the purposes of these directions:
- (a) **first dose deadline** in relation to a **worker** means the date identified in Column 3 of Schedule 1 for that worker;
 - (b) **relevant date** in relation to a **worker** means the date specified in Column 2 of Schedule 1 for that worker;
 - (c) **second dose deadline** in relation to a **worker** means the date identified in Column 4 of Schedule 1 for that worker.

9 Worker-specific definitions

Accommodation worker

(1) For the purposes of these directions:

- (a) **accommodation worker** means a person who works at or in connection with one of the following accommodation facilities, whether operated on a for-profit or not-for-profit basis:
 - (i) camping ground;
 - (ii) caravan park;
 - (iii) hotel;
 - (iv) hostel;
 - (v) bed and breakfast;
 - (vi) private holiday rental facility, including Airbnbs;
 - (vii) motel; or
 - (viii) serviced apartment.

Agricultural and forestry worker

(2) For the purposes of these directions:

- (a) **agricultural and forestry worker** means a person who works in connection with:
 - (i) food safety and verification, inspection or associated laboratory services and biosecurity functions;
 - (ii) animal saleyards, knackeries and animal transportation services (including livestock and pets);
 - (iii) services connected with animal health, husbandry or welfare;
 - (iv) farm, animal and bloodstock leasing activities, including but not limited to:
 - (A) farming activities and other operations relating to agriculture, horticulture, viticulture, irrigation, permaculture, apiculture, grains, fibre production, dairy, flower industry, commercial fishing, aquaculture and livestock;
 - (B) intensive agricultural production including greenhouses and animal production;
 - (C) agricultural, veterinary chemicals and vaccine production, transportation and distribution (including the Pig Services Centre);
 - (D) laboratory and diagnostic services;
 - (E) animal feed production, transportation, packaging, sale, and feeding (including livestock and pets);
 - (F) animal pounds and shelters activities; or
 - (v) forestry activities for the purposes of or relating to:
 - (A) production of firewood for heating of **premises**;
 - (B) production of pallets;
 - (C) production of building supplies for construction;
 - (D) production of other goods (e.g. paper, packaging, caskets and coffins).

Airport worker

- (3) For the purposes of these directions:
- (a) **airport** has the same meaning as in the **Airports Act 1996** of the Commonwealth;
 - (b) **airport worker** means a person who works at or in connection with an airport.

Ancillary, support and welfare worker

- (4) For the purposes of these directions:
- (a) **ancillary, support and welfare worker** means:
 - (i) a person who works in connection with:
 - (A) services that are critical to, and relate to, the Victorian Government's COVID-19 response (including hotel quarantine);
 - (B) a public event where that event has received an exemption from the Chief Health Officer allowing it to proceed, including any workers and public broadcast personnel that support the safe running of the public event;
 - (C) employment services;
 - (D) union/peak body/employer organisation officials attending a worksite as permitted by law or for Occupational Health and Safety (OHS) advice;
 - (ii) fly in fly out workers or drive in drive out workers who are required for continuity of an industry or business and maintenance of a competitive operation and where the service is time-critical, or for the critical maintenance or repair of infrastructure critical to a region of, or to, Victoria; or
 - (iii) maritime crew.

Authorised Officer

- (5) For the purposes of these directions:
- (a) **Authorised Officer** has the same meaning as in the **PHW Act**.

Care worker

- (6) For the purposes of these directions:
- (a) **alcohol and drug residential service** means:
 - (i) a treatment centre within the meaning of the **Severe Substance Dependence Treatment Act 2010**;
 - (ii) a residential treatment service (however described) that provides drug or alcohol withdrawal or rehabilitation services in a residential setting to people dependent on alcohol or other drugs; or
 - (iii) a service that provides supported accommodation to a person after the person has received residential treatment services of the kind referred to in subclause (b);
 - (b) **care worker** means a person who works in connection with:
 - (i) an **alcohol and drug residential service**;
 - (ii) a **disability residential service**;
 - (iii) services provided to an **NDIS participant** in any setting;
 - (iv) a **homelessness residential service**;
 - (v) a **secure welfare service**;
 - (vi) a **supported residential service**;
 - (vii) essential relief activities including the activities provided at Neighbourhood Houses;

- (viii) an **eligible SDA enrolled dwelling**;
- (ix) a **short-term accommodation and assistance dwelling**;
- (x) a **mental health residential service** including the service provided at a Community Care Unit or a Prevention and Recovery Centre; or
- (xi) a **retirement village**;
- (c) **disability residential service** means a residential service within the meaning of the **Disability Act 2006** and includes the Intensive Residential Treatment Program of the Statewide Forensic Service, often referred to as ‘DFATS’;
- (d) **eligible SDA enrolled dwelling** means a Specialist Disability Accommodation (SDA) enrolled dwelling that is provided under an SDA residency agreement within the meaning of section 498B of the **Residential Tenancies Act 1997**;
- (e) **homelessness residential service** means a service that is funded by government to provide a staffed residential service to people who are homeless or at risk of being homeless;
- (f) **mental health residential service** means a service that is funded by the Victorian Government to provide a staffed residential service to people who have a mental illness;
- (g) **retirement village** has the same meaning as in the **Retirement Villages Act 1986**;
- (h) **secure welfare service** has the same meaning as in the **Children, Youth and Families Act 2005**;
- (i) **short-term accommodation and assistance dwelling** has the same meaning as in the **Disability Act 2006**;
- (j) **supported residential service** has the same meaning as in the **Supported Residential Services (Private Proprietors) Act 2010**.

Community worker

- (7) For the purposes of these directions:
- (a) **community worker** means a person who works at or in connection with a community facility or an organisation providing community services, whether operated on a for profit or not-for-profit basis, including but not limited to:
 - (i) a facility at which services are provided by an Aboriginal Community Controlled Organisation;
 - (ii) a community centre or community hall;
 - (iii) a public library;
 - (iv) a youth centre; or
 - (v) a skatepark in an outdoor space.

Creative arts worker

- (8) For the purposes of these directions:
- (a) **creative arts worker** means a person who works at or in connection with:
 - (i) an art studio;
 - (ii) a ceramics studio;
 - (iii) a music room or studio;
 - (iv) a rehearsal room or studio; or
 - (v) any other facility that is used for creative art.

Custodial worker

(9) For the purposes of these directions:

- (a) **custodial worker** means a person who works at or in connection with a:
 - (i) custodial facility that is a facility used for the detention of persons, including but not limited to a:
 - (A) **prison**;
 - (B) **remand centre**;
 - (C) **youth residential centre**;
 - (D) **youth justice centre**;
 - (E) **residential facilities**; or
 - (F) **residential treatment facilities**.
 - (b) **prison** has the same meaning as in the **Corrections Act 1986**;
 - (c) **remand centre** has the same meaning as in the **Children, Youth and Families Act 2005**;
 - (d) **residential facility** has the same meaning as **Serious Offenders Act 2018**, and includes the Maribyrnong Community Residential Facility;
 - (e) **residential treatment facility** has the same meaning as **Serious Offenders Act 2018**;
 - (f) **youth residential centre** has the same meaning as in the **Children, Youth and Families Act 2005**;
 - (g) **youth justice centre** has the same meaning as in the **Children, Youth and Families Act 2005**.

Emergency service worker

(10) For the purposes of these directions:

- (a) **emergency service worker** means a person who works in connection with emergency services including but not limited to:
 - (i) the Victoria State Emergency Services;
 - (ii) Fire Rescue Victoria, the Country Fire Authority or any other firefighting services;
 - (iii) the Emergency Services Telecommunications Authority;
 - (iv) aquatic safety services, including life saving services and marine search and rescue services;
 - (v) paramedical services;
 - (vi) ambulance and paramedics services;
 - (vii) air ambulance and medical retrieval services (including Royal Flying Doctor Service);
 - (viii) Victoria Police, protective services and police custody services; or
 - (ix) essential infrastructure and essential services that are required to maintain or protect human health, safety and wellbeing (whether provided by a public or private undertaking), and including maintenance and repair of such infrastructure.

Entertainment and function worker

(11) For the purposes of these directions:

- (a) **entertainment and function worker** means a worker who works at an amusement park for the purpose of providing statutorily required training for staff prior to reopening.

Funeral worker

(12) For the purposes of these directions:

- (a) **funeral worker** means a person who works in connection with funerary or mortuary services.

Higher education worker

(13) For the purposes of these directions:

- (a) **higher education worker** means a person who works at or in connection with:
- (i) a university;
 - (ii) a vocational education and training institute;
 - (iii) a technical and further education institute;
 - (iv) an adult community and further education institute;
 - (v) a registered training organisation; or
 - (vi) any other facility undertaking post-compulsory education or training.

Justice worker

(14) For the purposes of these directions:

- (a) **honorary justice** has the same meaning as in the **Honorary Justices Act 2014**;
- (b) **justice service centre** means:
- (i) a premises or place appointed as a community corrections centre pursuant to section 86 of the **Corrections Act 1986** or a youth justice unit pursuant to section 478 of the **Child Youth and Families Act 2005**; or
 - (ii) the Wulgunggo Ngalu Learning Place;
- (c) **justice worker** means:
- (i) a person who works at or in connection with a **justice service centre**; or
 - (ii) an **honorary justice** or a person who works in connection with an honorary justice.

Manufacturing worker

(15) For the purposes of these directions:

- (a) **manufacturing worker** means a person who works at or in connection with a premises used for the distribution, production or processing of goods, including but not limited to production or processing of:
- (i) food (excluding meat, seafood or poultry);
 - (ii) beverages including brewed and bottled drinks;
 - (iii) textiles, leather, clothing, footwear and accessories;
 - (iv) wood products;
 - (v) pulp and paper products;
 - (vi) printing including small and large production runs;
 - (vii) chemicals, including fertilisers, pesticides, pharmaceutical, medicinal, cleaning products, toiletries, cosmetics, photographic and explosives;
 - (viii) metal and plastics;
 - (ix) machinery and equipment manufacturing including parts;
 - (x) furniture;
 - (xi) household goods;
 - (xii) whole or partial products; or
 - (xiii) software, essential marketing or product installation.

Marriage celebrant

(16) For the purposes of these directions:

- (a) **marriage celebrant** has the same meaning as **authorised celebrant** in the **Marriage Act 1961** of the Commonwealth.

Meat and seafood processing worker

(17) For the purposes of these directions:

- (a) **meat and seafood processing worker** means a person who works at or in connection with an abattoir or a meat, seafood or poultry processing plant.

Media and film production worker

(18) For the purposes of these directions:

- (a) **media and film production worker** means a person who works:
- (i) in connection with:
 - (A) journalism;
 - (B) media services;
 - (C) the production of feature films, theatre, television shows and documentaries (excluding television commercials, student and corporate productions);
 - (D) broadcasting performances from an entertainment facility; or
 - (E) a rehearsal conducted by a National Performing Arts Company.

Mining worker

(19) For the purposes of these directions:

- (a) **mining worker** means a person who works at a premises at which mining activities take place, including coal mining, oil and gas extraction, metal ore mining, non-metallic mineral mining and quarrying petroleum production.

Physical recreation worker

(20) For the purposes of these directions:

- (a) **physical recreation worker** means a person:
- (i) who works at or in connection with:
 - (A) a facility used or partly used for sport, sport racing or physical recreation;
 - (B) a **play centre**;
 - (C) a trampolining centre; or
 - (D) a swimming pool, **hydrotherapy pool**, spa, sauna, steam room or **spring facility**; or
 - (ii) who provides personal training services;
- (b) **hydrotherapy pool** means a pool designed to be used for hydrotherapy or rehabilitation purposes;
- (c) **play centre** means a premises, whether indoor or outdoor, that has play equipment to be used or partly used by children under the age of 12 years but does not mean a playground;
- (d) **spring facility** means a hot, sweet, geothermal or mineral pool, spa or bath fed by groundwater from an aquifer.

Port or freight worker

(21) For the purposes of these directions:

- (a) **port or freight worker** means a person works in connection with:
- (i) air transport services;

- (ii) port operations;
- (iii) freight services (including postal and courier services);
- (iv) services provided by a transport, freight or logistics driver; or
- (v) monitoring compliance with the **Heavy Vehicle National Law**.

Professional sports, high-performance sports, or racing person

(22) For the purposes of these directions:

- (a) **professional sports, high-performance sports, or racing person** means a person who:
 - (i) performs a sporting activity in an open-aged national or international competition (at the highest level as identified by the recognised national body);
 - (ii) is employed to perform a sporting activity as their primary source of income (for example, employed by a professional club or recognised national body);
 - (iii) is a National Institute Network Scholarship holder or equivalent level national categorised athlete;
 - (iv) supports the safe conduct of another person's professional sport;
 - (v) publicly broadcasts professional sport; or
 - (vi) participates in thoroughbred, harness and greyhound racing.

Professional services worker

(23) For the purposes of these directions:

- (a) **Australian legal practitioner** has the same meaning as in the **Legal Profession Uniform Law Application Act 2014**;
- (b) **legal worker** means:
 - (i) an **Australian legal practitioner** who provides services in connection with the administration of justice where the services can be provided by an online communication, teleconference or by means of an audio-visual link facility;
 - (ii) a person who works in connection with a person specified in paragraph (i),
but does not include:
 - (iii) a member of the Victorian Civil and Administrative Tribunal; or
 - (iv) a worker who works in connection with proceedings in a **court**, where that work cannot be done from the person's ordinary place of residence;
- (c) **professional services worker** means:
 - (i) a person who **provides a financial service** within the meaning of section 766A of the **Corporations Act 2001** of Commonwealth, or works in connection with the provision of such a service; or
 - (ii) a **legal worker**.

Public sector worker

(24) For the purposes of these directions:

- (a) **local government worker** means:
 - (i) a Chief Executive Officer within the meaning of the **Local Government Act 2020**;
 - (ii) a member of Council staff appointed under section 48 of the **Local Government Act 2020**;

- (b) **public sector worker** means:
- (i) a Ministerial officer employed under section 98 of the **Public Administration Act 2004**;
 - (ii) a local government worker; or
 - (iii) a person who is a public sector employee within the meaning of the **Public Administration Act 2004**, except:
 - (A) a person who is a member of the staff of Court Services Victoria within the meaning of the **Court Services Victoria Act 2014**;
 - (B) a parliamentary officer within the meaning of the **Parliamentary Administration Act 2004**; or
 - (C) a person employed or engaged by the Chief Executive Officer of the Victorian Civil and Administrative Tribunal.

Real estate worker

- (25) For the purposes of these directions:
- (a) **estate agent** has the same meaning as in the **Estate Agents Act 1980**;
 - (b) **real estate worker** means an **estate agent** or any person who works in connection with the provision of services by an estate agent.

Religious worker

- (26) For the purposes of these directions:
- (a) **religious worker** means a person who works at or in connection with a **place of worship**, but does not include a person who:
 - (i) conducts services of public worship and acknowledgments of faith;
 - (ii) performs marriages, funerals and special memorial services according to tradition and ecclesiastical and civil law; or
 - (iii) visits members of the community in their homes, hospitals and other institutions to provide advice and religious comfort for the purpose of end of life faith reasons;
 - (b) **place of worship** has the same meaning as in the **Heritage Act 2017**.

Repair and maintenance worker

- (27) For the purposes of these directions:
- (a) **repair and maintenance worker** means a person who works in connection with:
 - (i) laundry services;
 - (ii) dry cleaning services;
 - (iii) car washing services;
 - (iv) commercial cleaning service;
 - (v) locksmith services;
 - (vi) roadside assistance services;
 - (vii) pool and spa maintenance services for commercial pools and spas;
 - (viii) vehicle and mechanical repair services;
 - (ix) outdoor maintenance, repairs, and cleaning, including at occupied premises;
 - (x) outdoor home installations;
 - (xi) home solar panel installations that involve outdoor work or in roof cavities with external access; or
 - (xii) critical repairs to any premises where required for emergency or safety.

Retail worker

(28) For the purposes of these directions:

- (a) **bottle shop** means an area that is physically attached to a **licensed premises** where packaged alcohol is sold to be consumed off the premises;
- (b) **club licence** has the same meaning as in the **Liquor Control Reform Act 1998**;
- (c) **food and drink facility** means a café, restaurant, **licensed premises**, fast-food store, cafeteria, canteen, winery, food truck or food court;
Note: a food and drink facility includes a food and drink facility at a stadium or arena.
- (d) **general licence** has the same meaning as in the **Liquor Control Reform Act 1998**;
- (e) **late night licence** has the same meaning as in the **Liquor Control Reform Act 1998**;
- (f) **licensed premises** means a business characterised as a pub, bar, club, **nightclub** or hotel that supplies alcohol under a **general licence**, an **on-premises licence**, a **late night licence**, a **producer's licence**, a **club licence**, a **packaged liquor licence**, or a **restaurant and café licence**;
- (g) **market** means a public market, whether indoor or outdoor, including a food market and includes individual stalls at a market;
- (h) **nightclub** means a facility:
 - (i) to which a **late night licence** applies; and
 - (ii) with a dancefloor; and
 - (iii) which does not serve food prepared at the facility for consumption on the premises;
- (i) **on-premises licence** has the same meaning as in the **Liquor Control Reform Act 1998**;
- (j) **packaged liquor licence** has the same meaning as in the **Liquor Control Reform Act 1998**;
- (k) **producer's licence** has the same meaning as in the **Liquor Control Reform Act 1998**;
- (l) **restaurant and café licence** has the same meaning as in the **Liquor Control Reform Act 1998**;
- (m) **retail facility** means a premises, or part of a premises, at which a business operates to provide for the sale or hire of goods by retail, or the provision of services by retail, including but not limited to a:
 - (i) **market**, but only to obtain groceries or fresh food;
 - (ii) **retail shopping centre**;
 - (iii) supermarket, grocery store, bakery, butcher, fruit and vegetable store or fishmonger;
 - (iv) **food and drink facility**;
 - (v) post office;
 - (vi) news agent;
 - (vii) petrol station (including a petrol station that sells groceries);
 - (viii) **bottle shop**;
 - (ix) pet store; or
 - (x) a facility that provides 'click and collect' services;
- (n) **retail worker** means a person who works at or in connection with a **retail facility** or a wholesale or distribution facility;
- (o) **retail shopping centre** has the same meaning as in the **Retail Leases Act 2003**.

Science and technology worker

(29) For the purposes of these directions:

- (a) **science and technology worker** means a person who works in connection with scientific and technical research or activities, but only in relation to:
- (i) COVID-19 (e.g. MedTech research regarding vaccines);
 - (ii) hazard monitoring and resilience;
 - (iii) biosecurity and public health;
 - (iv) medical or other research, which is ongoing and requires on site attendance; or
 - (v) critical scientific experiments, labs, and collections.

Social and community service worker

(30) For the purposes of these directions:

- (a) **social and community service worker** means a person who works in connection with:
- (i) disability services;
 - (ii) services provided to an NDIS participant in any setting;
 - (iii) child protection services;
 - (iv) family violence and sexual assault support services;
 - (v) homelessness support services;
 - (vi) public housing support services;
 - (vii) mental health services;
 - (viii) aged care services;
 - (ix) any social services provided or contracted by the government to support members of the community who have a particular need because of family violence, homelessness, illness or a chronic health condition, infirmity, disability, contact with the justice system or other essential support service; or
 - (x) interpreter, cultural, or support services.

Transport worker

(31) For the purposes of these directions:

- (a) **transport worker** means a person who performs work in connection with:
- (i) a **bus company**;
 - (ii) a **commercial passenger vehicle service**; or
 - (iii) a **public transport service**;
- (b) **bus company** has the same meaning as in **Transport (Compliance and Miscellaneous) Act 1983**;
- (c) **commercial passenger vehicle service** has the same meaning as in the **Commercial Passenger Vehicle Industry Act 2017**;
- (d) **public transport service** has the same meaning as in the **Transport (Compliance and Miscellaneous) Act 1983**.

Utility and urban worker

(32) For the purposes of these directions:

- (a) **utility and urban worker** means a person who works in connection with:
- (i) specialist services at telecommunications stores to support telecommunications as a critical service during the COVID-19 pandemic;

- (ii) services to support the ongoing provision and regulation of electricity, gas, water, sewage and waste and recycling services and their maintenance;
- (iii) domestic and commercial waste and resource recovery services (including collection, treatment and disposal services and transfer stations), including:
 - (A) electricity services;
 - (B) operation of energy systems;
 - (C) gas services;
 - (D) water supply, sewerage and drainage services; or
 - (E) liquid fuels and refinery services;
- (iv) the operation of primary clinical waste incinerators by specialised clinical waste workers;
- (v) the operation of carparks for the purposes of supporting workers.

Veterinary and pet/animal care worker

(33) For the purposes of these directions:

- (a) **veterinary and pet/animal care worker** means a person who works:
 - (i) in connection with:
 - (A) pet grooming services;
 - (B) veterinary services;
 - (C) animal rescue services;
 - (D) animal health, husbandry or welfare services; or
 - (ii) at the premises of or in connection with:
 - (A) a nature reserve at which animals are treated and cared for;
 - (B) a zoo.

10 Other definitions

For the purposes of these directions:

- (1) **Commonwealth employee** has the same meaning as in the **Sex Discrimination Act 1984** of the Commonwealth;
- (2) **court** means:
 - (a) the Supreme Court;
 - (b) the County Court;
 - (c) the Magistrates' Court;
 - (d) the Children's Court;
 - (e) the Coroner's Court;
 - (f) the Victorian Civil and Administrative Tribunal;
 - (g) the Victims of Crime Assistance Tribunal; and
 - (h) any Federal Court;
- (3) **COVID-19 Mandatory Vaccination (Specified Facilities) Directions** means the **COVID-19 Mandatory Vaccination (Specified Facilities) Directions (No. 7)** as amended or replaced from time to time;
- (4) **COVID-19 vaccine** means a vaccine to protect a person against SARS-CoV-2 that:
 - (a) has been registered or provisionally registered by the Therapeutic Goods Administration; or
 - (b) has been approved by a comparable overseas regulator, as determined by the Therapeutic Goods Administration under regulation 16DA(3) of the **Therapeutic Goods Regulation 1990** of the Commonwealth;

- (5) **critical unforeseen circumstance** means a circumstance that the employer could not reasonably have foreseen nor planned for which results in a critical need for staff;
- (6) **Diagnosed Persons and Close Contacts Directions** means the **Diagnosed Persons and Close Contacts Directions (No. 28)** as amended or replaced from time to time;
- (7) **Directions currently in force** has the same meaning as in the **Workplace Directions** as amended or replaced from time to time;
- (8) **emergency situation** means a situation where it is reasonably apparent to an employer that medical treatment is necessary, as a matter of urgency to:
- (a) save a person's life; or
 - (b) prevent serious damage to a person's health; or
 - (c) prevent a person from suffering or continuing to suffer significant pain or distress;
- (9) **medical contraindication** means one of the following contraindications to the administration of a **COVID-19 vaccine**:
- (a) anaphylaxis after a previous dose;
 - (b) anaphylaxis to any component of the vaccine, including polysorbate or polyethylene glycol;
 - (c) in relation to AstraZeneca:
 - (i) history of capillary leak syndrome; or
 - (ii) thrombosis with thrombocytopenia occurring after a previous dose;
 - (d) in relation to Comirnaty or Spikevax:
 - (i) myocarditis or pericarditis attributed to a previous dose of either Comirnaty or Spikevax; or
 - (e) the occurrence of any other serious adverse event that has:
 - (i) been attributed to a previous dose of a COVID-19 vaccine by an experienced immunisation provider or medical specialist (and not attributed to any another identifiable cause); and
 - (ii) been reported to State adverse event programs and/or the Therapeutic Goods Administration;
- (10) **medical practitioner** means:
- (a) a general practice registrar on an approved 3GA training placement; or
 - (b) a public health physician; or
 - (c) an infectious disease physician; or
 - (d) a clinical immunologist; or
 - (e) a general practitioner who is vocationally registered; or
 - (f) a general practitioner who is a fellow of the Royal Australian College of General Practitioners (RACGP); or
 - (g) a general practitioner who is a fellow of the Australian College of Rural and Remote Medicine (ACRRM); or
 - (h) a paediatrician; or
 - (i) a medical practitioner who is a fellow of the Royal Australasian College of Physicians;
- (11) **NDIS participant** has the meaning given to 'participant' under the **National Disability Insurance Scheme Act 2013** of the Commonwealth;
- (12) **PHW Act** means the **Public Health and Wellbeing Act 2008**;
- (13) **PPE** means personal protective equipment;
- (14) **premises** has the same meaning as in the **PHW Act** but does not include a worker's ordinary place of residence.

11 Penalties

- (1) Section 203 of the PHW Act provides:

Compliance with direction or other requirement

- (1) A person must not refuse or fail to comply with a direction given to the person, or a requirement made of the person, in the exercise of a power under an authorisation given under section 199.

Penalty: In the case of a natural person, 120 penalty units;
In the case of a body corporate, 600 penalty units.

- (2) A person is not guilty of an offence against subsection (1) if the person had a reasonable excuse for refusing or failing to comply with the direction or requirement.

Note: section 209 of the PHW Act provides for infringement notices to be served on any person who has refused or failed to comply with a direction given to the person, or a requirement made of the person, in the exercise of a power under an authorisation given under section 199. The amount payable pursuant to the infringement notice varies depending on the nature of the failure or refusal.

- (2) Section 210 of the PHW Act provides:

False or misleading information

- (1) A person must not—

- (a) give information that is false or misleading in a material particular; or
(b) make a statement that is false or misleading in a material particular; or
(c) produce a document that is false or misleading in a material particular—
to the Secretary, a Council, the Chief Health Officer or an authorised officer under this Act or the regulations without indicating the respect in which it is false or misleading and, if practicable, providing correct information.

Penalty: In the case of a natural person, 60 penalty units;
In the case of a body corporate, 300 penalty units.

- (2) A person must not make an entry in a document required to be kept by this Act or the regulations that is false or misleading.

Penalty: In the case of a natural person, 60 penalty units;
In the case of a body corporate, 300 penalty units.

- (3) In a proceeding for an offence against subsection (1) or (2) it is a defence to the charge for the accused to prove that at the time at which the offence is alleged to have been committed, the accused believed on reasonable grounds that the information, statement or document was true or was not misleading.

Dated 15 October 2021

ADJUNCT CLINICAL PROFESSOR BRETT SUTTON
Chief Health Officer,
as authorised to exercise emergency powers
under sections 20A and 199(2)(a) of the PHW Act

SCHEDULE 1 – WORKERS

Row	Worker (Column 1)	Relevant date (Column 2)	First dose deadline (Column 3)	Second dose deadline (Column 4)	Worker- specific definitions
1.	accommodation worker	15 October 2021	22 October 2021	26 November 2021	9(1)(a)
2.	agricultural and forestry worker	15 October 2021	22 October 2021	26 November 2021	9(2)(a)
3.	airport worker	15 October 2021	22 October 2021	26 November 2021	9(3)(b)
4.	ancillary, support and welfare worker	15 October 2021	22 October 2021	26 November 2021	9(4)(a)
5.	Authorised Officer	15 October 2021	22 October 2021	26 November 2021	9(5)(a)
6.	care worker	15 October 2021	22 October 2021	26 November 2021	9(6)(b)
7.	community worker	15 October 2021	22 October 2021	26 November 2021	9(7)(a)
8.	creative arts worker	15 October 2021	22 October 2021	26 November 2021	9(8)(a)
9.	custodial worker	15 October 2021	22 October 2021	26 November 2021	9(9)(a)
10.	emergency service worker	15 October 2021	22 October 2021	26 November 2021	9(10)(a)
11.	entertainment and function worker	15 October 2021	22 October 2021	26 November 2021	9(11)(a)
12.	funeral worker	15 October 2021	22 October 2021	26 November 2021	9(12)(a)
13.	higher education worker	15 October 2021	22 October 2021	26 November 2021	9(14)(a)
14.	justice worker	15 October 2021	22 October 2021	26 November 2021	9(15)(b)
15.	manufacturing worker	15 October 2021	22 October 2021	26 November 2021	9(16)(a)
16.	marriage celebrant	15 October 2021	22 October 2021	26 November 2021	9(17)(a)
17.	meat and seafood processing worker	15 October 2021	22 October 2021	26 November 2021	9(18)(a)
18.	media and film production worker	15 October 2021	22 October 2021	26 November 2021	9(19)(a)
19.	mining worker	15 October 2021	22 October 2021	26 November 2021	9(20)(a)
20.	physical recreation worker	15 October 2021	22 October 2021	26 November 2021	9(21)(a)
21.	port or freight worker	15 October 2021	22 October 2021	26 November 2021	9(21)(a)
22.	professional sports, high-performance sports or racing person	15 October 2021	22 October 2021	26 November 2021	9(23)(a)
23.	professional services worker	15 October 2021	22 October 2021	26 November 2021	9(24)(a)

24.	public sector worker	15 October 2021	22 October 2021	26 November 2021	9(25)(a)
25.	real estate worker	15 October 2021	22 October 2021	26 November 2021	9(26)(b)
26.	religious worker	15 October 2021	22 October 2021	26 November 2021	9(27)(a)
27.	repair and maintenance worker	15 October 2021	22 October 2021	26 November 2021	9(28)(a)
28.	retail worker	15 October 2021	22 October 2021	26 November 2021	9(29)(e)
29.	science and technology worker	15 October 2021	22 October 2021	26 November 2021	9(30)(a)
30.	social and community service worker	15 October 2021	22 October 2021	26 November 2021	9(31)(a)
31.	transport worker	15 October 2021	22 October 2021	26 November 2021	9(32)(a)
32.	utility and urban worker	15 October 2021	22 October 2021	26 November 2021	9(33)(a)
33.	veterinary and pet/animal care worker	15 October 2021	22 October 2021	26 November 2021	9(34)(a)

Public Health and Wellbeing Act 2008

Section 200

DIRECTIONS FROM CHIEF HEALTH OFFICER IN ACCORDANCE WITH EMERGENCY POWERS ARISING FROM DECLARED STATE OF EMERGENCY**COVID-19 Mandatory Vaccination (Specified Facilities) Directions (No. 8)**

I, Adjunct Clinical Professor Brett Sutton, Chief Health Officer, consider it reasonably necessary to protect public health to give the following directions pursuant to section 200(1)(d) of the **Public Health and Wellbeing Act 2008** (Vic.) (**PHW Act**):

PART 1 – PRELIMINARY**1 Preamble**

- (1) The purpose of these directions is to impose obligations upon operators of **specified facilities** in relation to the vaccination of **workers**, in order to limit the spread of severe acute respiratory syndrome coronavirus 2 (**SARS-CoV-2**) within the population in these settings.
- (2) Previous versions of these directions imposed obligations on operators of:
 - (a) **residential aged care facilities**; and
 - (b) **construction sites**.
- (3) These directions continue to impose those obligations, and extend them to **operators** of:
 - (a) **healthcare facilities**; and
 - (b) **education facilities**.
- (4) Key definitions are contained in clause 8.
- (5) Facility-specific definitions are contained in clause 9.
- (6) Other definitions are contained in clause 10.
- (7) These directions must be read together with the **Directions currently in force**.

2 Citation

These directions may be referred to as the **COVID-19 Mandatory Vaccination (Specified Facilities) Directions (No. 8)**.

3 Commencement and revocation

- (1) These directions commence at 11:59:00 pm on 15 October 2021 and end at 11:59:00 pm on 21 October 2021.
- (2) The **COVID-19 Mandatory Vaccination (Specified Facilities) Directions (No. 7)** are revoked at 11:59:00 pm on 15 October 2021.

PART 2 – OPERATOR OBLIGATIONS**4 Operator must collect, record and hold vaccination information***Vaccination information*

- (1) If a worker is, or may be, scheduled to work at a specified facility on or after the **relevant date**, the operator must collect, record and hold **vaccination information** about the worker.

Booking information – partially vaccinated and unvaccinated workers

- (2) If the operator collects information that a worker is **partially vaccinated**, the operator must also collect, record and hold information about whether that worker has a booking to receive, by the **second dose deadline**, a dose of a **COVID-19 vaccine** that will cause the worker to become **fully vaccinated**.
- (3) If the operator collects information that a worker is **unvaccinated**, the operator must also must collect, record and hold information about whether that worker has a booking to receive, by the **first dose deadline**, a dose of a **COVID-19 vaccine** that will cause the worker to become **partially vaccinated**.

Timing

- (4) An operator must comply with the obligations in sub-clauses (1) to (3) as soon as reasonably practicable after the commencement of these directions.

Exception

- (5) Subclauses (1) to (4) do not apply if the operator already holds vaccination information about a worker who is, or may be, scheduled to work at the specified facility on or after the relevant date.

5 Operator must take reasonable steps to prevent entry of unvaccinated workers*Prevention of entry to premises*

- (1) An operator of a specified facility must take all reasonable steps to ensure that, on or after the relevant date, a worker who is unvaccinated does not enter, or remain on, the premises of a specified facility for the purposes of working at the facility.
- (2) For the purposes of subclause (1), if an operator does not hold vaccination information about a worker, the operator must treat the worker as if the worker is unvaccinated.

Exception – booking by first dose deadline

- (3) Despite subclause (1), an operator of a specified facility may, between the relevant date and the first dose deadline, permit a worker who:
- (a) is unvaccinated; and
 - (b) has a booking to receive, by the first dose deadline, a dose of COVID-19 vaccine that will cause the worker to become partially vaccinated;
- to enter, and remain on, the premises of the facility for the purposes of working at the facility.
- (4) If an operator of a healthcare facility permits a worker to enter, and remain on, the premises of the facility under subclause (3), the operator must take reasonable steps to ensure that the worker wears, at all times while on the premises of the facility, **PPE** that includes at a minimum, a surgical mask and face shield.

Exception – self-quarantine

- (5) Despite subclause (1), an operator of a specified facility may, after the first dose deadline, permit a worker who:
- (a) is unvaccinated; and
 - (b) was unable to become partially vaccinated before the first dose deadline because they were in self-quarantine under the **Diagnosed Persons and Close Contacts Directions**; and
 - (c) has a booking to receive, within 7 days of the end of the period of self-quarantine as determined under the **Diagnosed Persons and Close Contacts Directions**, a dose of a COVID-19 vaccine that will cause the worker to become partially vaccinated,
- to enter, and remain on, the premises of the specified facility.

Authorisation to use vaccination information

- (6) For the purposes of complying with this clause, an operator is authorised to use any information about a worker that it holds under clause 4.

Disclosure to employer or contractor

- (7) If the operator is obliged to comply with subclause (1) in relation to a worker and the operator is not:
- (a) the employer of the worker; or
 - (b) the person who engaged the worker to work at the facility;
- the operator is authorised to disclose to the employer or person who engaged the worker that the operator is obliged to comply with subclause (1) in relation to the worker.

Notification to current workers

- (8) Subject to subclause (9), an operator of specified facility must, as soon as reasonably practicable after the commencement of these directions, inform each worker who is, or may be, scheduled to work at the facility on or after the relevant date that:
- (a) clause 4 obliges the operator to collect, record and hold vaccination information about the worker before the relevant date;
 - (b) subclause (1) obliges the operator to take all reasonable steps to ensure that, on or after the relevant date, a worker who is unvaccinated does not enter, or remain on, the premises of a specified facility for the purposes of working at the facility, unless an exception applies under these directions.
- (9) Subclause (8) does not apply to an operator in respect of a worker if the operator informed the worker of the matters specified in that subclause under a previous version of these directions.

Notification to new workers

- (10) If an operator of a specified facility engages a worker who is, or may be, scheduled to work at the facility on or after the relevant date, the employer must inform the worker, as soon as reasonably practicable after engaging the worker, that:
- (a) clause 4 obliges the employer to collect, record and hold vaccination information about the worker; and
 - (b) subclause (1) obliges the employer, on and after the relevant date, 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.

6 Exception – exceptional circumstances

- (1) An operator of a specified facility is not required to comply with clauses 4 and 5 if one or more of the exceptional circumstances specified in subclause (2) applies.
- (2) The exceptional circumstances are:

- (a) a worker is required to perform work or duties at the facility that is or are necessary to provide for urgent specialist clinical or medical care due to an **emergency situation** or a **critical unforeseen circumstance**; or
- (b) a worker is required to fill a vacancy to provide urgent care, to maintain quality of care and/or continue essential operations at the facility due to an emergency situation or a critical unforeseen circumstance; or

Example 1: a work premises has a large number of workers furloughed due to exposure at a Tier 1 site.

Example 2: a medical practitioner is required to attend the premises on short notice due to an emergency situation.

- (c) a worker is required to attend the facility to respond to an emergency at the facility; or
- (d) a worker is required to perform urgent and essential work at the facility to protect the health and safety of workers or members of the public, or to protect assets and infrastructure; or

Example 1: securing a crane due to impending high winds.

Example 2: works required at a construction site in order to make the construction site safe for continued operation.

- (e) an education worker is required to:
 - (i) carry out assessments of an oral or performance examination as part of the Victorian Certificate of Education or International Baccalaureate; or
 - (ii) work as a venue coordinator for those examinations.

- (3) If a circumstance specified in subclause (2)(b), (c), (d) or (e) applies, the operator must take all reasonable steps to ensure that the worker remains upon the premises of the facility only for the period of time necessary to respond to the exceptional circumstance.

Additional obligation

- (4) If the circumstances specified in subclause (2) apply in relation to a residential aged care facility or a healthcare facility, the relevant operator must take all reasonable steps to ensure that the worker wears, at all times while on the premises of the facility, PPE that includes, at a minimum, a surgical mask and face shield.

7 Disclosure to Authorised Officers

- (1) An Authorised Officer may request an operator to produce to the Authorised Officer any vaccination information held by the operator under clause 4.
- (2) If an Authorised Officer makes a request to a person under subclause (1), the person must comply with the request.

Note: Authorised officers may also be authorised to exercise the public health risk power in section 190(1)(d) of the PHW Act to require the provision of any information needed to investigate, eliminate or reduce the risk to public health.

PART 3 – DEFINITIONS

8 Key definitions

Vaccination status

- (1) A person's **vaccination status** is one of the following:
 - (a) **fully vaccinated**; or
 - (b) **partially vaccinated**; or
 - (c) **unvaccinated**; or
 - (d) **excepted person**.
- (2) A person is **fully vaccinated** if the person has received two doses of a COVID-19 vaccine.
- (3) A person is **partially vaccinated** if the person has received one dose of a COVID-19 vaccine and is not an **excepted person**.
- (4) A person is **unvaccinated** if the person has not received a dose of a COVID-19 vaccine and is not an **excepted person**.
- (5) A person is an **excepted person** if:
 - (a) the person holds certification from a **medical practitioner** that the person is unable to receive a dose, or a further dose, of a COVID-19 vaccine due to a **medical contraindication**; or
 - (b) the person holds certification from a medical practitioner that the person is unable to receive a dose, or a further dose, of a COVID-19 vaccine due to an acute medical illness (including where the person has been diagnosed with SARS-CoV-2).
- (6) A certification for the purpose of subclause (5)(b) is effective until the earlier of:
 - (a) the date specified by the medical practitioner; or
 - (b) the date 6 months from the date the certification was given by the medical practitioner.

Vaccination information

- (7) For the purposes of these directions, **vaccination information** is information about a person's vaccination status and includes information that is derived from a record of information that was made under, or in accordance with, the **Australian Immunisation Register Act 2015** of the Commonwealth.

Note: Vaccination information may be recorded in a variety of documents, such as a letter from a medical practitioner, a certificate of immunisation or an immunisation history statement obtained from the Australian Immunisation Register.

Schedule 1 definitions

- (8) For the purposes of these directions:
- (a) **first dose deadline** in relation to a **specified facility** means the date identified in Column 4 of Schedule 1 for that facility;
 - (b) **operator** in relation to a **specified facility** means a person identified in Column 2 of Schedule 1 for that facility;
 - (c) **relevant date** in relation to a **specified facility** means the date specified in Column 6 of Schedule 1 for that facility;
 - (d) **second dose deadline** in relation to a **specified facility** means the date identified in Column 5 of Schedule 1 for that facility;
 - (e) **specified facility** means a facility identified in Column 1 of Schedule 1;
 - (f) **worker** in relation to a **specified facility** means a person identified in Column 3 of Schedule 1 for that facility except for a person under 12 years of age.

9 Facility-specific definitions*Residential aged care facilities*

- (1) For the purposes of these directions:
- (a) **approved provider** has the same meaning as in the **Aged Care Quality and Safety Commission Act 2018** of the Commonwealth;
 - (b) **residential aged care facility** means the premises 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;
 - (c) **residential aged care facility worker** means a person (including a volunteer) that is:
 - (i) employed, or engaged as a contractor, by an **operator** that operates a **residential aged care facility** to perform work at the residential aged care facility including:
 - (A) direct care workforce including nurses, personal care workers, allied health professionals, and allied health assistants;
 - (B) administration staff including reception and management staff;
 - (C) ancillary staff including food preparation, cleaning, laundry, gardening and general maintenance staff;
 - (D) dental practitioners;
 - (E) phlebotomists (pathology nurses);
 - (F) lifestyle and social staff, such as those delivering music or art therapy;
 - (G) transport drivers who are responsible for collecting and transporting residents to and from the residential aged care facility for outings;
 - (H) volunteers engaged by the residential aged care facility to undertake duties at the facility;
 - (I) students on placement;
 - (J) **medical practitioners** and allied health professionals who attend the residential aged care facility to provide care to residents of the facility; and
 - (ii) a medical practitioner, dental practitioner or allied health professional who is employed or engaged by a resident of a residential aged care facility to provide care to the resident;
 - (d) **residential care subsidy** has the same meaning as in the **Aged Care Act 1997** of the Commonwealth.

Construction sites

(2) For the purposes of these directions:

- (a) **construction site** means a premises at which civil works, building or construction activities are taking place (the primary premises) and includes:
- (i) premises that are nearby to the primary premises at which work relating to the operation of the primary premises is undertaken (secondary premises);
 - (ii) any **vehicle** used to carry out work at the primary premises or secondary premises.

Example: a site office for a construction site that is located in an office building close to the construction site.

- (b) **principal contractor** means the owner of a **construction site** unless the owner:
- (i) appoints a principal contractor for the construction work performed for or on behalf of the owner; and
 - (ii) authorises the principal contractor to manage or control the **construction site** to the extent necessary to discharge the duties imposed on a principal contractor under the **Occupational Health and Safety Regulations 2017**;
- (c) **vehicle** has the same meaning as in the **PHW Act**.

Healthcare facilities

(3) For the purposes of these directions:

- (a) **healthcare facility** means each of the following facilities:
- (i) hospitals, including outpatient settings and in reach services;
 - (ii) ambulance and patient transport services vehicles,
 - (iii) community health centres including mental health, child and maternity, and drug and alcohol counselling services centres;
 - (iv) general practices;
 - (v) COVID-19 related healthcare sites, including testing sites, vaccination centres and hotel quarantine premises;
 - (vi) dental surgeries and practices;
 - (vii) day procedure centres;
 - (viii) health clinics, including medical specialist and allied health professional operated clinics;
 - (ix) pharmacies;
 - (x) diagnostic and medical imaging centres;
 - (xi) facilities that provide mobile health services;
 - (xii) facilities that provide blood donation services;
 - (xiii) educational facilities where healthcare students undertake placement, registration or internships;
 - (xiv) facilities that provide health services within government agencies, including the Victorian Department of Justice and Community Services – Victorian Institute of Forensic Medicine; and
 - (xv) any retail or other facility operating within a healthcare facility, including cafes, newsagents and florists.
- (b) **healthcare operator** means a person who operates a **healthcare facility** whether public, private or denominational; and

- (c) **healthcare worker** means a person who is employed or engaged as a contractor by a **healthcare operator** to perform at a **healthcare facility** any of the following:
- (i) healthcare services including:
 - (A) **medical practitioners**, dental professionals, nurses and midwives;
 - (B) allied health professionals (including those that work within a discipline classified by the Victorian Department of Health as allied health, or are registered with the *Australian Health Practitioner Regulation Agency*);
 - (C) personal care attendants;
 - (D) phlebotomists and pathology workers;
 - (E) lifestyle and social therapists;
 - (F) formal language and interpretation services;
 - (G) students; and
 - (H) volunteers;
 - (ii) administrative or ancillary roles, including:
 - (A) an administrative, clerical and managerial worker, and each of their assistants delegates;
 - (B) food preparation, cleaning and laundry services;
 - (C) patient service assistants and porters;
 - (D) operating theatre technicians;
 - (E) security, maintenance and repair and information technology, gardening and landscaping;
 - (iii) ambulance and patient transport services; and
 - (iv) work at a retail business operating within a healthcare facility, including cafes, restaurants, newsagents and florists.

Education facilities

- (4) For the purposes of these directions:
- (a) **childcare or early childhood service** means onsite early childhood education and care services or children's services provided under the:
 - (i) **Education and Care Services National Law** and the **Education and Care Services National Regulations**, including long day care services, kindergartens and/or preschool and family daycare services, but not including outside **school** hours care services; and
 - (ii) **Children's Services Act 1996**, including limited hours services, budget based funded services, occasional care services, early childhood intervention services, mobile services and (if applicable) school holiday care programs;
 - (b) **education facility** means:
 - (i) a **childcare or early childhood service**, and includes outside school hours care services;
 - (ii) a **school** means a registered school as defined in the **Education and Training Reform Act 2006**; and
 - (iii) **school boarding premises**;
 - (c) **education operator** means a person who operates an **education facility**, whether public, private or denominational;

- (d) **education worker** means:
 - (i) any person who is employed by an **education operator** to work in an **education facility** (including teachers, early childhood educators and educational support staff);
 - (ii) a person contracted to work at an **education facility** and who will or may be in close proximity to children, students or staff, whether or not engaged by the **education operator** including casual relief teachers, Breakfast Club suppliers, IT personnel, NDIS providers and auditors, but does not include delivery personnel);
 - (iii) staff of the Department of Education and Training who attend an **education facility** (such as allied health personnel or Authorised Officers);
 - (iv) staff of any other entity who attends an **education facility**;
 - (v) volunteers that attend an **education facility** and that work in close proximity to children, students or staff (including parent helpers); and
 - (vi) students on placements at an **education facility**;
- (e) **school** means a registered school as defined in the **Education and Training Reform Act 2006**; and
- (f) **school boarding premises** means a registered school boarding premises, as defined in the **Education and Training Reform Act 2006**.

10 Other definitions

For the purposes of these directions:

- (1) **Authorised Officer** has the same meaning as in the **PHW Act**;
- (2) **COVID-19 vaccine** means a vaccine to protect a person against SARS-CoV-2 that:
 - (a) has been registered or provisionally registered by the Therapeutic Goods Administration; or
 - (b) has been approved by a comparable overseas regulator, as determined by the Therapeutic Goods Administration under regulation 16DA(3) of the **Therapeutic Goods Regulation 1990** of the Commonwealth;
- (3) **critical unforeseen circumstance** means a circumstance that the operator of a work premises could not reasonably have foreseen nor planned for which results in a critical need for staff;
- (4) **Diagnosed Persons and Close Contacts Directions** means the **Diagnosed Persons and Close Contacts Directions (No. 28)** as amended or replaced from time to time;
- (5) **Directions currently in force** has the same meaning as in the **Workplace Directions** as amended or replaced from time to time;
- (6) **emergency situation** means a situation where it is reasonably apparent to the operator of a specified facility that medical treatment is necessary, as a matter of urgency to:
 - (a) save a person's life; or
 - (b) prevent serious damage to a person's health; or
 - (c) prevent a person from suffering or continuing to suffer significant pain or distress;
- (7) **medical contraindication** means one of the following contraindications to the administration of a **COVID-19 vaccine**:
 - (a) anaphylaxis after a previous dose;
 - (b) anaphylaxis to any component of the vaccine, including polysorbate or polyethylene glycol;

- (c) in relation to AstraZeneca:
 - (i) history of capillary leak syndrome; or
 - (ii) thrombosis with thrombocytopenia occurring after a previous dose;
 - (d) in relation to Comirnaty or Spikevax:
 - (i) myocarditis or pericarditis attributed to a previous dose of either Comirnaty or Spikevax; or
 - (e) the occurrence of any other serious adverse event that has
 - (i) been attributed to a previous dose of a **COVID-19 vaccine** by an experienced immunisation provider or medical specialist (and not attributed to any another identifiable cause); and
 - (ii) been reported to State adverse event programs and/or the Therapeutic Goods Administration;
- (8) **medical practitioner** means:
- (a) a general practice registrar on an approved 3GA training placement; or
 - (b) a public health physician; or
 - (c) an infectious disease physician; or
 - (d) a clinical immunologist; or
 - (e) a general practitioner who is vocationally registered; or
 - (f) a general practitioner who is a fellow of the Royal Australian College of General Practitioners (RACGP); or
 - (g) a general practitioner who is a fellow of the Australian College of Rural and Remote Medicine (ACRRM); or
 - (h) a paediatrician; or
 - (i) a medical practitioner who is a fellow of the Royal Australasian College of Physicians;
- (9) **PHW Act** means the **Public Health and Wellbeing Act 2008**;
- (10) **PPE** means personal protective equipment;
- (11) **premises** has the same meaning as in the **PHW Act** but does not include a worker's ordinary place of residence.

11 Penalties

- (1) Section 203 of the PHW Act provides:

Compliance with direction or other requirement

- (1) A person must not refuse or fail to comply with a direction given to the person, or a requirement made of the person, in the exercise of a power under an authorisation given under section 199.

Penalty: In the case of a natural person, 120 penalty units;

In the case of a body corporate, 600 penalty units.

- (2) A person is not guilty of an offence against subsection (1) if the person had a reasonable excuse for refusing or failing to comply with the direction or requirement.

Note: section 209 of the PHW Act provides for infringement notices to be served on any person who has refused or failed to comply with a direction given to the person, or a requirement made of the person, in the exercise of a power under an authorisation given under section 199. The amount payable pursuant to the infringement notice varies depending on the nature of the failure or refusal.

(2) Section 210 of the PHW Act provides:

False or misleading information

(1) A person must not—

- (a) give information that is false or misleading in a material particular; or
- (b) make a statement that is false or misleading in a material particular; or
- (c) produce a document that is false or misleading in a material particular—
to the Secretary, a Council, the Chief Health Officer or an authorised officer under this Act or the regulations without indicating the respect in which it is false or misleading and, if practicable, providing correct information.

Penalty: In the case of a natural person, 60 penalty units;
In the case of a body corporate, 300 penalty units.

(2) A person must not make an entry in a document required to be kept by this Act or the regulations that is false or misleading.

Penalty: In the case of a natural person, 60 penalty units;
In the case of a body corporate, 300 penalty units.

(3) In a proceeding for an offence against subsection (1) or (2) it is a defence to the charge for the accused to prove that at the time at which the offence is alleged to have been committed, the accused believed on reasonable grounds that the information, statement or document was true or was not misleading.

Dated 15 October 2021

ADJUNCT CLINICAL PROFESSOR BRETT SUTTON
Chief Health Officer,
as authorised to exercise emergency powers
under sections 20A and 199(2)(a) of the PHW Act

SCHEDULE 1 – SPECIFIED FACILITIES

Specified facility (Column 1)	Operator (Column 2)	Worker (Column 3)	First dose deadline (Column 4)	Second dose deadline (Column 5)	Relevant date (Column 6)	Facility-specific definitions
residential aged care facility	approved provider with responsibility for that residential aged care facility	residential aged care facility worker	1 October 2021	15 November 2021	30 September 2021	Clause 9(1)
construction site	principal contractor for that construction site	any person (paid or unpaid) performing work at a construction site, including: (a) an employee of the operator; and (b) any contractor engaged by the operator or by a third-party.	2 October 2021	13 November 2021	30 September 2021	Clause 9(2)
healthcare facility	healthcare operator	healthcare worker	29 October 2021	15 December 2021	15 October 2021	Clause 9(3)
education facility	education operator	education worker	25 October 2021	29 November 2021	18 October 2021	Clause 9(4)

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