

PUBLIC HEALTH ACT 2016 (WA)

Sections 157(1)(e), 157(1)(k), 180 and 190(1)(p)

BOOSTER VACCINATION (RESTRICTIONS ON ACCESS) DIRECTIONS

(NO 2)

The World Health Organization declared COVID-19 a pandemic on 11 March 2020.

On 23 March 2020, the Minister for Health declared a public health state of emergency with effect from 1.30 pm on 23 March 2020 in respect of COVID-19 pursuant to section 167 of the *Public Health Act 2016 (WA) (Act)*. On 22 September 2021, the Minister for Health declared a further public health state of emergency with effect from 4.25 pm on 22 September 2021 in respect of COVID-19 pursuant to section 167 of the Act. The public health state of emergency applies to the State of Western Australia.

I, Dr Andrew Robertson, the Chief Health Officer, authorised as an emergency officer under section 4 of the Act to exercise any of the emergency powers while the public health state of emergency declaration in respect of COVID-19 is in force, consider it reasonably necessary to give the following directions to all persons in Western Australia to prevent, control or abate the serious public health risk presented by COVID-19 pursuant to sections 157(1)(e), 157(1)(k), 180 and 190(1)(p) of the Act.

PREAMBLE

1. The purpose of these directions is to require persons, who are required to comply with vaccination requirements in other directions, to receive a COVID-19 booster dose for the purpose of limiting the spread of COVID-19 to vulnerable groups and the general community in Western Australia, and to ensure that workers can continue to provide critical services to the community.

CITATION

2. These directions may be referred to as the **Booster Vaccination (Restrictions on Access) Directions (No 2)**.

COMMENCEMENT

3. These directions come into effect upon signing.

REVOCATION

4. The Booster Vaccination (Restrictions on Access) Directions are revoked.

DIRECTIONS

Access Restrictions

5. Subject to paragraphs 6 and 7, on and from 12:01 am on 5 February 2022, a person who is a **vaccination directed person** must not enter, or remain at a **site** if the vaccination directed person has not complied with the **booster vaccination requirements**, unless the person is present at the site solely in a capacity other than as a vaccination directed person or is an **exempt person**.

General Vaccination Requirements

6. Where only part of **premises** are being used as a site, nothing in these directions prevents a vaccination directed person who has not complied with the booster vaccination requirements from entering or remaining upon that part of the premises which is not being used as a site.
7. Nothing in these directions prevents a person who has not complied with the booster vaccination requirements from entering any part of a site for the purposes of:
 - (a) performing a law enforcement function that cannot reasonably be performed other than by entering the site; or
 - (b) performing a statutory duty arising under a law of the Commonwealth that cannot reasonably be performed other than by entering the site; or
 - (c) performing any function or duty or exercising any right or power under a Fair Work entry permit issued by the Fair Work Commission under the *Fair Work Act 2009* (Cth) or a Work Health and Safety entry permit issued by the Fair Work Commission under the *Work Health and Safety Act 2011* (Cth) or a right of entry permit issued by the Registrar of the Department of the Registrar, Western Australian Industrial Relations Commission under the *Industrial Relations Act 1979* (WA); or
 - (d) responding to an emergency where the emergency response is required to be provided immediately and there is no available alternative to the response being provided by the vaccination directed person.
8. A vaccination directed person must provide evidence in the form approved by the **Chief Health Officer** of their **booster vaccination status** for inspection, recording and retention of a copy, if:
 - (a) **directed** to do so by an **emergency officer** or a **nominated officer**; or

- (b) required to do so by a **responsible person**.
9. The **responsible person** must:
- (a) take all reasonable and lawful steps to:
 - (i) collect and maintain a record of the booster vaccination status of each vaccination directed person;
 - (ii) only roster on, or otherwise permit to work at a site, a vaccination directed person who is compliant with the booster vaccination requirements or is an exempt person in accordance with these directions; and
 - (b) on request, provide any record of the kind referred to in paragraph 9(a)(i) that the responsible person has collected and maintained to an emergency officer or nominated officer as soon as practicable after the request is made; and
 - (c) not use or disclose any record of the kind referred to in paragraph 9(a)(i) except:
 - (i) as provided for in this paragraph 9; or
 - (ii) as permitted or required by law, including any law of the Commonwealth; or
 - (iii) for the purpose of ascertaining compliance with any employer direction restricting entry to a site; or
 - (iv) to the extent that the person expressly provided the person's booster vaccination status for a purpose other than for the purposes of these directions; and
 - (d) take reasonable steps to protect any record it holds of the kind referred to in paragraph 9(a)(i) from:
 - (i) misuse and loss; and
 - (ii) unauthorised access, modification or disclosure.
10. A person who is required to provide evidence of their booster vaccination status under paragraph 8 or a record of the kind referred to in paragraph 9(a)(i) under paragraph 9(b) must only provide that evidence or a record that is true and accurate.

INTERPRETATION

11. Unless specified otherwise, any reference in these directions to any other **direction** made by the Chief Health Officer is deemed to be a reference to that direction as amended or replaced from time to time.

DEFINITIONS

For the purposes of these directions:

12. **ATAGI** means the Australian Technical Advisory Group on Immunisation.
13. **Booster vaccination** means a booster dose of a COVID-19 vaccine registered by the Therapeutic Goods Administration and recommended for use as a single booster dose by ATAGI.
14. **Booster vaccination requirements** means:
 - (a) if the vaccination directed person was **eligible** to receive a **booster vaccination** at the commencement of the Booster Vaccination (Restrictions on Access) Directions, the person is to be administered the booster vaccination by 5 February 2022;
 - (b) if the vaccination directed person becomes eligible to receive a booster vaccination after the commencement of the Booster Vaccination (Restrictions on Access) Directions, the person is to be administered the booster vaccination within one calendar month of the date the person first became eligible, or by 5 February 2022, whichever is the latter.

Note: The Booster Vaccination (Restrictions on Access) Directions commenced on 24 December 2021.

Note: For the purposes of paragraph 14(b), the date that a person first becomes eligible to receive a booster vaccination does not change to a date earlier in time should the ATAGI recommendation change after a person has already become eligible to receive a booster vaccination.

Example: If a person for the purposes of paragraph 14(a) received their second dose of a COVID-19 vaccination on 7 May 2021, the person would be eligible to receive a booster dose 5 months from when they received their second dose (i.e. from 7 October 2021) and must be administered their booster vaccination before 5 February 2022.

If a person for the purposes of paragraph 14(b) received their second dose of a COVID-19 vaccination on 7 September 2021, from 4 January 2022, the person will become

eligible to receive a booster dose 4 months from when they received their second dose (i.e. from 7 January 2022) and must be administered their booster vaccination by 7 February 2022 (i.e. one calendar month after becoming eligible). The date that this person must be administered their booster vaccination does not change retrospectively to 7 January 2022 when the ATAGI recommendation changes on 31 January 2022 to 3 months from the date the person became fully vaccinated.

If a person for the purposes of paragraph 14(b) received their second dose of a COVID-19 vaccination on 25 November 2021, from 31 January 2022, the person will be eligible to receive a booster dose 3 months from when they received their second dose (i.e. from 25 February 2022) and must be administered their booster vaccination by 25 March 2022 (i.e. one calendar month after becoming eligible).

15. **Booster vaccination status** means whether a vaccination directed person has complied with the booster vaccination requirements or whether they are an exempt person.
16. **Chief Health Officer** has the same meaning that it has in the Act.
17. **Direction** includes any direction under the Act, whether the direction is given orally or in writing, and **directed** includes directed by way of a direction under the Act, whether the direction is given orally or in writing.
18. **Eligible** means that date upon which ATAGI recommends that a person receive their booster vaccination being:
 - (a) from the 24 December 2021 until 3 January 2022, a date which is 5 months from the date the person became **fully vaccinated**;
 - (b) from 4 January 2022 until 30 January 2022, a date which is 4 months from the date the person became fully vaccinated;
 - (c) from 31 January 2022, a date which is 3 months from the date the person became fully vaccinated,provided that in circumstances where ATAGI amends their recommendation, a person who was not yet eligible to receive a booster vaccination will be considered eligible from the date which corresponds to the time period after being fully vaccinated that has been so recommended.
19. **Emergency officer** has the same meaning that it has in the Act.


20. **Exempt person** means, to the extent that any such person is a vaccination directed person:
- (a) a person who has:
 - i. a **medical exemption** of which the person provides proof on request by a person referred to in paragraph 8; or
 - ii. a **temporary exemption** of which the person provides proof on request by a person referred to in paragraph 8;
 - iii. been declared an exempt person by the Chief Health Officer or a person authorised by the Chief Health Officer pursuant to a **Restrictions on Access Direction**; or
 - (b) any other person or class of persons who the Chief Health Officer, or a person authorised by the Chief Health Officer for the purposes of this paragraph, declares in writing to be an exempt person upon receipt of a request for exemption in the form specified by the Chief Health Officer and subject to any terms and conditions specified.
21. **Fully vaccinated** means that the person has been administered with two doses of a COVID-19 vaccine registered by the Therapeutic Goods Administration.
22. **Medical exemption** means a medical exemption recorded on the Australian Immunisation Register and displayed on the individual's Immunisation History Statement.
23. **Nominated officer** means a person authorised by the Chief Health Officer orally or in writing to perform a function for the purposes of these directions or a Restrictions on Access Direction.
24. **Partially vaccinated** means that the person has been administered with one dose of a COVID-19 vaccine registered by the Therapeutic Goods Administration.
25. **Premises** has the same meaning that it has in the Act.
26. **Responsible person** means a person, other than an emergency officer or nominated officer, who under a Restrictions on Access Direction:
- (a) has authority to require a vaccination directed person to provide evidence of their **vaccination status**; or
 - (b) must collect and maintain a record of the vaccination status of a vaccination directed person; or

(c) must only roster on, or otherwise permit to work or enter a site a person who is vaccinated or is an exempt person.

27. **Restrictions on Access Direction** means one of the directions listed in Schedule 1, or any other directions that amend or replace those directions, or any other direction made by the Chief Health Officer under the Act which requires a person to comply with vaccination requirements to enter, or remain at, a site.
28. **Site** means a **premises** that the vaccination directed person must not enter, or remain at, under a Restrictions on Access Direction if the vaccination directed person has not been partially vaccinated or fully vaccinated against COVID-19 or is an exempt person.
29. **Temporary exemption** means an exemption approved by the Chief Health Officer or a person authorised by the Chief Health Officer for that purpose whether in relation to an individual or a class of persons and subject to any terms and conditions specified in that approval and includes a temporary exemption approved under a Restrictions on Access Direction.
30. **Vaccination directed person** means a person who is required to comply with vaccination requirements including a requirement not to enter or remain at certain premises after a certain date unless the person is **partially vaccinated** or fully vaccinated under a Restrictions on Access Direction.
31. **Vaccination status** has the same meaning as in the relevant Restrictions on Access Direction.

PENALTIES

It is an offence for a person to fail, without reasonable excuse, to comply with any of these directions, punishable by a fine of up to \$20,000 for individuals and \$100,000 for bodies corporate.



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Dr Andrew Robertson

Emergency Officer

7 January 2022 18:42 hours

SCHEDULE 1

Row	Title of Directions
1.	Access to Quarantine Centres Directions (No 2)
2.	Air Services and Border Worker (Restrictions on Access) Directions (No 2)
3.	Building and Construction Industry Worker (Restrictions on Access) Directions (No 3)
4.	Community Care Services Worker (Restrictions on Access) Directions (No 2)
5.	Critical Businesses Worker (Restrictions on Access) Directions
6.	Critical Government Regulator (Restrictions on Access) Directions
7.	Critical Infrastructure Worker (Restrictions on Access) Directions
8.	Education Worker (Restrictions on Access) Directions (No 4)
9.	Fire and Emergency Services Worker (Restrictions on Access) Directions (No 2)
10.	Health Worker (Restrictions on Access) Directions (No 3)
11.	Meat Industry Worker (Restrictions on Access) Directions
12.	Ministerial Staff Member (Restrictions on Access) Directions
13.	Port Worker and Exposed Port Worker (Restrictions on Access) Directions (No 2)
14.	Primary Health Care Worker (Restrictions on Access) Directions
15.	Public and Commercial Transport Workers (Restrictions on Access) Directions (No 2)
16.	Remote Aboriginal Community Worker (Restrictions on Access) Directions
17.	Residential Aged Care Facility Worker Access Directions (No 4)
18.	Resources Industry Worker (Restrictions on Access) Directions (No 2)
19.	WA Correctional Facility Entrant (Restrictions on Access) Directions
20.	WA Police Force Worker (Restrictions on Access) Directions
21.	WA Police Mission Critical Areas (Restrictions on Access) Directions (No 3)