



Legal Advice

LEGAL ADVICE FROM RDA'S INHOUSE LEGAL TEAM

Please note that whether these directions are made lawfully under section 200 of the Public Health and Wellbeing Act 2008 (Vic) is a matter for the Courts to decide. The following comments are given on the basis that they are lawful, however, this is likely to be the subject of court proceedings.

Application of directions

1 Preamble

(5) *These directions must be read together with the **Directions currently** in force.*

(6) *These directions replace the **COVID-19 Mandatory Vaccination (Workers) Directions**.*

...

3 Commencement and revocation

...

(2) The **COVID-19 Mandatory Vaccination (Workers) Directions** are revoked at 11:59:00pm on 14 October 2021.

Comment: Read these directions on a stand alone basis to avoid confusion.

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.*

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.*

Comment: The "Timing" provision is an essential part of these directions. As an employer, you are not required to comply by a fixed date. As an employee, you are therefore not required to respond by a fixed date. Whether the Ministers department has the resources to investigate both employers and employees who do not provide this information in a "timely manner" is doubtful given the sheer volume of people that are affected by these directions.

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

In short – if an employee is unvaccinated, or the employer does not have vaccination records of the employee, they are not to perform work outside their ordinary place of residence. There is an exception for those who have a booking for a "first dose" by 22 October 2021. If a booking is in place, they are able to work without the restrictions that apply to others who are unvaccinated without a booking.

Note – it is clear that the risk of being "unvaccinated" is not the primary concern of these directions.

6 Exception — exceptional circumstances

The following are the most relevant exceptions:

"(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



...
(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;"

In short – operational requirements with respect to Government services (health, transport, emergency services) largely take precedence over the requirements for vaccinations contained in these directions.

Definitions

Pages 5 to 23 of these directions contain definitions. Please review these definitions when trying to determine how they apply to you and your workplace.