

PUBLIC HEALTH ACT 2016 (WA)

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

PUBLIC AND COMMERCIAL TRANSPORT WORKERS (RESTRICTIONS ON ACCESS) DIRECTIONS (No 2)

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

On 15 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, 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 put in place measures to address the risk posed by COVID-19 in the context of the public and commercial transport workforce, 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 **Public and Commercial Transport Workers (Restrictions on Access) Directions (No 2)**.

COMMENCEMENT

3. These directions come into effect upon signing.

REVOCATION

4. The Public and Commercial Transport Workers (Restrictions on Access) Directions are revoked.

DIRECTIONS

5. Subject to paragraph 6:

- (a) on and from 12.01 am on 1 January 2022, a person who is a **transport worker**, in the course of performing duties or undertaking activities as a transport worker, must not drive or board a **commercial transport conveyance** or a **public transport conveyance**, or enter, or remain at, a **remote rail operating centre** or on **rail corridor land**, if the transport worker has not been partially vaccinated against COVID-19; and
- (b) on and from 12.01 am on 1 February 2022, a person who is a transport worker, in the course of performing duties or undertaking activities as a transport worker, must not drive or board a commercial transport conveyance or public transport conveyance, or enter, or remain at, a remote rail operating centre or on rail corridor land, if the transport worker has not been fully vaccinated against COVID-19,

unless the transport worker is an **exempt person**.

Note: Passengers are not subject to these Directions, including a transport worker who boards a conveyance as a passenger other than for work purposes.

6. Nothing in these directions prevents a person who is not vaccinated against COVID-19 from driving or boarding a commercial transport conveyance or public transport conveyance, or from entering, or remaining at, a remote rail operating centre or on rail corridor land, for the purposes of:
 - (a) performing a law enforcement function that cannot reasonably be performed other than by driving or boarding the commercial transport conveyance or public transport conveyance, or entering a remote rail operating centre or rail corridor land; or

*Note: A person who drives or boards a public transport conveyance in the course of their duties as a **security officer** or an **authorised person** is not*

performing a law enforcement function for the purposes of paragraph 6(a) of these Directions.

- (b) performing a statutory duty arising under a law of the Commonwealth that cannot reasonably be performed other than by driving or boarding the commercial transport conveyance or public transport conveyance or by entering a remote rail operating centre or rail corridor land; 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 *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 of the 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 a fully vaccinated or partially vaccinated person is not available to provide the response.
7. A transport worker must provide evidence in the form approved by the **Chief Health Officer** of their **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 their employer, or by the owner or operator of a commercial transport conveyance or public transport conveyance, or by the provider of an **on-demand booking service** that communicates bookings to the transport worker, or by the owner or operator of a remote rail operating centre or rail corridor land.
8. The employer of a transport worker, or the owner or operator of a commercial transport conveyance or public transport conveyance, or the provider of an on-demand booking service, or the owner or operator of a remote rail operating centre or rail corridor land, must:
- (a) take all reasonable and lawful steps to:

- (i) collect and maintain a record of the vaccination status of each transport worker; and
 - (ii) only roster on, or otherwise permit to work on board a commercial transport conveyance or public transport conveyance, or at a remote rail operating centre or on rail corridor land, a transport worker who is vaccinated or is an exempt person in accordance with these directions;
 - (iii) if they are the provider of an on-demand booking service, only communicate a booking to a transport worker who is vaccinated or is an exempt person in accordance with these directions; and
 - (iv) if they are the owner or operator of a commercial transport conveyance or public transport conveyance, only permit a transport worker who is vaccinated or is an exempt person in accordance with these directions to drive or board a commercial transport conveyance or public transport conveyance in the course of performing duties or undertaking activities as a transport worker;
- and
- (b) on request, provide any record of the kind referred to in paragraph 8(a)(i) 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 8(a)(i) except:
 - (i) as provided for in this paragraph 8; 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 driving or boarding of a commercial transport conveyance or public transport conveyance, or entry to a remote rail operating centre or rail corridor land; or

- (iv) to the extent that the person expressly provided the person's 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 8(a)(i) from:
 - (i) misuse and loss; and
 - (ii) unauthorised access, modification or disclosure.
9. A person who is required to provide evidence of their vaccination status under paragraph 7 or a record of the kind referred to in paragraph 8(a)(i) under paragraph 8(b) must only provide that evidence or a record that is true and accurate.
10. The forms of evidence approved in the *Chief Health Officer Approved Form Of Evidence Of COVID-19 Vaccination Under Each Of The Restrictions On Access Directions Given Under The Public Health Act 2016 (WA) In Respect Of COVID-19*, as amended or replaced from time to time, are approved for the purposes of paragraph 7 of this direction.

INTERPRETATION

11. Unless specified otherwise, any reference in these directions to any other **direction** made by the Chief Health Officer or a direction made by the State Emergency Coordinator under the *Emergency Management Act 2005 (WA)* 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. **Authorised person** has the same meaning that it has in the *Public Transport Authority Act 2003 (WA)*.
13. **Chief Health Officer** has the same meaning that it has in the Act.
14. **Commercial transport conveyance** means a vehicle (including **rolling stock**, a vessel, and **on-demand vehicle**) by means of which passengers, goods, items, commodities, food, livestock or other animals may be conveyed, carried or transported on a commercial basis, by road, railway or water.

15. **Community transport service** has the same meaning that it has in the *Transport (Road Passenger Services) Act 2018* (WA).
16. **Courtesy transport service** has the same meaning that it has in the *Transport (Road Passenger Services) Act 2018* (WA).
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. **Emergency officer** has the same meaning that it has in the Act.
19. **Exempt person** means, to the extent that any such person is a transport worker:
 - (a) a person who has:
 - (i) a **medical exemption** of which the person provides proof on request by a person referred to in paragraph 7; or
 - (ii) a **temporary exemption** of which the person provides proof on request by a person referred to in paragraph 7; 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.
20. **Fully vaccinated** means that the person has been administered with two doses of a COVID-19 vaccine administered by the Therapeutic Goods Administration.
21. **Maritime crew member** has the same meaning that it has in the Maritime Crew Member Directions (No 2).
22. **Medical exemption** means a medical exemption recorded on the Australian Immunisation Register and displayed on the individual's Immunisation History Statement.
23. **Mining or petroleum worker** has the meaning that it has in the Resources Industry Worker (Restrictions on Access) Directions (No 2).
24. **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.

25. **On-demand booking service** has the same meaning that it has in the *Transport (Road Passenger Services) Act 2018* (WA).
- Note: Services deemed not to be on-demand booking services under the Transport (Road Passenger Services) Regulations 2020 are excluded also from the definition of on-demand booking service under these Directions.*
26. **On-demand vehicle** has the same meaning that it has in the *Transport (Road Passenger Services) Act 2018* (WA).
- Note: An on-demand vehicle includes taxis and rideshare vehicles.*
27. **Partially vaccinated** means that the person has been administrated with one dose of a COVID-19 vaccine registered by the Therapeutic Goods Administration.
28. **Port worker** has the same meaning that it has in the Port Worker and Exposed Port Worker (Restriction on Access) Directions.
29. **Public passenger transport service** has the same meaning that it has in the *Public Transport Authority Act 2003* (WA).
30. **Public transport conveyance** means a road bus, ferry or railway train involved in the provision of a public passenger transport service.
31. **Rail corridor land** means corridor land as designated under Part 3 of the *Rail Freight System Act 2000* (WA).
32. **Remote rail operating centre** means those remote rail operating centres at the following locations:
- (a) 37 Yelverton Drive, Midland in the State of Western Australia;
 - (b) Picton Railway Complex, Trovato Way, South West Highway, Picton in the State of Western Australia;
 - (c) 8 Modal Crescent, Canning Vale in the State of Western Australia; and
 - (d) any other premises that is specified to be a remote rail operating centre by the Chief Health Officer in writing or any person authorised by the Chief Health Officer for that purpose.
33. **Rolling stock** has the same meaning that it has in *Rail Safety National Law (WA) Act 2015* (WA).

34. **Security officer** has the same meaning that it has in the *Public Transport Authority Act 2003* (WA).
35. **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.
36. **Transport worker** means:
- (a) a person described in column 1 of the table in Schedule 1; and
 - (b) any other person specified in writing to be a transport worker by the Chief Health Officer or a person authorised by the Chief Health Officer for that purpose,
- but does not include:
- (c) a person who drives or boards a commercial transport conveyance or public transport conveyance, or enters a remote rail operating centre or rail corridor land, for any of the purposes in paragraph 6; or
 - (d) a person of a kind set out in Column 2 of the table in Schedule 1.
37. **Vaccination status** means whether a transport worker has been vaccinated or whether they are an exempt person.

PENALTIES

It may be 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.



Dr Andrew Robertson

Emergency Officer

17 December 2021 18:02 hours

SCHEDULE 1

Column 1	Column 2
<p>1. A person who is employed or otherwise engaged to work:</p> <p>(a) as a driver of a commercial transport conveyance which is being used in connection with the conveyance, carriage or transportation of passengers, goods, items, commodities, food, livestock or other animals on a commercial basis; or</p> <p>(b) in a role other than as a driver, on board a commercial transport conveyance, and in connection with the conveyance, carriage or transportation of passengers, goods, items, commodities, food, livestock or other animals on a commercial basis,</p> <p>but does not include a person referred to in paragraphs (a) or (b) where the commercial transport conveyance is being used by Australia Post for postal services pursuant to the <i>Australian Postal Corporation Act 1989</i> (Cth).</p> <p>2. A person who is employed or otherwise engaged to work:</p> <p>(a) as a driver of a public transport conveyance; or</p>	<p>1. A person who is employed or otherwise engaged to work:</p> <p>(a) only in a voluntary or unpaid capacity; or</p> <p>(b) only in connection with the provision of a courtesy transport service or a community transport service.</p> <p>2. A person who is:</p> <p>(a) a mining or petroleum worker; or</p> <p><i>Note: a mining or petroleum worker is required to meet the requirements of the Resources Industry Worker (Restrictions on Access) Directions (No 2).</i></p> <p>(b) a port worker; or</p> <p><i>Note: a port worker is required to meet the requirements of the Port Worker and Exposed Port Worker (Restrictions on Access) Directions.</i></p> <p>(c) a maritime crew member.</p>

<p>(b) in a role other than as a driver, on board a public transport conveyance.</p> <p>3. A person who is employed or otherwise engaged to work at a remote rail operating centre or on a rail corridor land:</p> <p>(a) by the owner or operator of the remote rail operating centre or on rail corridor land; or</p> <p>(b) by a contractor or subcontractor of the owner or operator of the remote rail operating centre or on rail corridor land.</p>	
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