

PUBLIC HEALTH ACT 2016 (WA)

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

CRITICAL GOVERNMENT REGULATOR (RESTRICTIONS ON ACCESS) DIRECTIONS

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 put in place measures to address the risks posed by COVID-19 in the context of critical government regulators, 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 **Critical Government Regulator (Restrictions on Access) Directions**.

COMMENCEMENT

3. These directions come into effect upon signing.

DIRECTIONS

Access Restrictions Applying to Critical Government Regulators

4. Subject to paragraph 5:
 - (a) on and from 12:01 am on 1 January 2022, a person who is a **critical government regulator** must not enter, or remain at, a **critical government regulator site** if the critical government regulator 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 critical government regulator must not enter, or remain at, a critical government regulator site or if the critical government regulator has not been **fully vaccinated** against COVID-19.

General Vaccination Requirements

5. Nothing in these directions prevents a person who is not vaccinated against COVID-19 from entering any part of a critical government regulator 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
 - (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.
6. A critical government regulator 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 person apparently in charge of the critical government regulator.
7. The employer or person apparently in charge of a critical government regulator must:

- (a) take all reasonable and lawful steps to:
 - (i) collect and maintain a record of the vaccination status of each critical government regulator;
 - (ii) only roster on, or otherwise permit to work at a critical government regulator site, a critical government regulator who is vaccinated or is an exempt person in accordance with these directions; and
 - (b) on request, provide any record of the kind referred to in paragraph 7(a)(i) that the employer or person apparently in charge of a critical government regulator 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 7(a)(i) except:
 - (i) as provided for in this paragraph 7; 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 critical government regulator site; 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 7(a)(i) from:
 - (i) misuse and loss; and
 - (ii) unauthorised access, modification or disclosure.
8. A person who is required to provide evidence of their vaccination status under paragraph 6 or a record of the kind referred to in paragraph 7(a)(i) under paragraph 7(b) must only provide that evidence or a record that is true and accurate.
9. 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 6 of this direction.

INTERPRETATION

10. 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:

11. **Chief Health Officer** has the same meaning that it has in the Act.
12. **Critical government regulator** means:
- (a) a person of the kind set out in Column 1 of Schedule 1; or
 - (b) any other person or class of persons specified in writing to be a critical government regulator by the Chief Health Officer or a person authorised by the Chief Health Officer for that purpose;
- but does not include:
- (c) a person of the kind set out in Column 2 of Schedule 1; or
 - (d) a person who enters any part of a critical government regulator site for any of the purposes in paragraph 5.
13. **Critical government regulator site** means any premises owned, operated, occupied or under the control of the employer or person apparently in charge of the critical government regulator.
14. **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.
15. **Emergency officer** has the same meaning that it has in the Act.
16. **Exempt person** means, to the extent that any such person is a critical government regulator:
- (a) a person who has:
 - i. a **medical exemption** of which the person provides proof on request by a person referred to in paragraph 6; or
 - ii. a **temporary exemption** of which the person provides proof on request by a person referred to in paragraph 6; 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.
17. **Fully vaccinated** means that the person has been administered with two doses of a COVID-19 vaccine registered by the Therapeutic Goods Administration.
18. **Medical exemption** means a medical exemption recorded on the Australian Immunisation Register and displayed on the individual's Immunisation History Statement.
19. **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.
20. **Partially vaccinated** means that the person has been administered with one dose of a COVID-19 vaccine registered by the Therapeutic Goods Administration.
21. **Premises** has the same meaning that it has in the Act.
22. **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.
23. **Vaccination status** means whether a critical government regulator has been vaccinated or whether they are an exempt person.

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.



Dr Andrew Robertson

Emergency Officer

15 December 2021 13:05 hours

SCHEDULE 1 – Critical Government Regulators

Row	Column 1	Column 2
1	<p>A person who is:</p> <ul style="list-style-type: none"> a) an authorised officer or food safety auditor under the <i>Food Act 2008</i> (WA); b) appointed as an inspector of mines under the <i>Mines, Safety and Inspection Act 1994</i> (WA); c) an inspector appointed under the <i>Environmental Protection Act 1986</i> (WA); d) appointed as an inspector under the <i>Occupational Safety and Health Act 1994</i> (WA) or the <i>Work Health and Safety Act 2020</i> (WA) once when proclaimed; e) appointed as an industrial inspector under the <i>Industrial Relations Act 1979</i> (WA); f) designated to be an inspector under the <i>Energy Coordination Act 1994</i> (WA); g) an authorised person carrying out an investigation or inquiry under Part 6 of the <i>Fair Trading Act 2010</i> (WA); h) appointed as an inspector under the <i>Liquor Control Act 1988</i> (WA); 	<p>State or Local government regulators, officers, employees or person otherwise engaged in any way including in a voluntary or unpaid capacity not identified in Column 1 Schedule 1 or specified by the Chief Health Officer under paragraph 12(b) of these directions.</p> <p><i>Note: For example, administrative staff or cleaning staff or persons not performing any of the specific critical regulatory functions listed in Column 1 are excluded from the operation of this direction, even if they may be engaged by the same organisation or working in the same premises.</i></p>

	<ul style="list-style-type: none"> i) an authorised person performing a function related to an inspection under section 113 of the <i>Racing and Wagering Act 2003</i> (WA); j) an authorised officer under the <i>Corruption, Crime and Misconduct Act 2003</i> (WA); k) appointed as an inspector under the <i>Veterinary Surgeons Act 1960</i> (WA) or the <i>Veterinary Practice Act 2021</i> (WA); l) appointed as a pound keeper or ranger under the <i>Local Government (Miscellaneous Provisions) Act 1960</i> (WA); m) an environmental health officer whether employed or engaged by local government, appointed under the <i>Public Health Act 2016</i> (WA); n) an authorised officer performing an enforcement function under Part IV of the <i>Radiation Safety Act 1975</i> (WA); o) an officer conferred powers and functions of an inspector or analyst under the <i>Agricultural and Veterinary Chemicals (Western Australia) Act 1995</i> (WA); 	
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	<p>p) appointed as an inspector under the <i>Animal Welfare Act 2002</i> (WA);</p> <p>q) appointed as an inspector under the <i>Biosecurity and Agricultural Management Act 2007</i> (WA); and</p> <p>r) an inspector defined or appointed under the <i>Exotic Diseases of Animals Act 1993</i> (WA).</p>	
2.	<p>A person who is employed or otherwise engaged including in a voluntary or unpaid capacity by a local government authority to perform or coordinate the following roles, duties or functions:</p> <p>a) a pool inspector;</p> <p>b) a ranger administering the local government's obligations in respect of matters such as control of animals, security, and monitoring of local law compliance.</p>	