



Critical Businesses Worker (Restrictions on Access) Directions Exemption Guidelines

Based on the health advice from Western Australia's Chief Health Officer, due to the evolving Delta variant and risks of COVID-19, the *Critical Businesses Worker (Restrictions on Access) Directions* (the **Directions**) were made on 6 December 2021 and came into effect upon signing.

Under the Directions, critical business workers (unless they are an exempt person) must be vaccinated against COVID-19 to enter or remain at a critical business site.

Critical business workers are required to be vaccinated against COVID-19 as follows:

- From 1 January 2022 – **Partially vaccinated** (first dose)
- From 1 February 2022 – **Fully vaccinated** (second dose)

All critical business workers and their employers, owners, occupiers, operators or persons in charge of a critical business site should refer to the Directions to determine the vaccination requirements.

Partially vaccinated means that a person has been administered with one dose of a COVID-19 vaccination registered by the Therapeutic Goods Administration.

Fully vaccinated means that a person has been administered with two doses of a COVID-19 vaccine registered by the Therapeutic Goods Administration.

When directed or required, a critical business worker must produce evidence that they have been vaccinated against COVID-19.

These Guidelines only provide a summary of the exemptions arising under the Directions at the time these Guidelines are published. The signed Directions are available at *Critical Businesses Worker (Restrictions on Access) Directions* (www.wa.gov.au/government/document-collections/covid-19-coronavirus-mandatory-vaccination) and may be amended or replaced from time to time.

Who is a critical business worker?

Critical business worker means each of the following (other than an exempt person):

- A person who is employed or otherwise engaged, including in a voluntary or unpaid capacity to carry out activities or provide goods or services at a critical business site:
 - by the owner, occupier, operator or person apparently in charge of the critical business site; or
 - by a contractor or subcontractor of the owner, occupier, operator or person apparently in charge of the critical business site.
- A person who is an apprentice or cadet or trainee or on work experience or placement at a critical business site.
- A person who is the owner, occupier operator or person apparently in charge of a critical business site.
- Any other person or class of persons specified in writing to be a critical business worker by the Chief Health Officer or a person authorised by him for that purpose.

But does not include

- A person who carries out activities or provides goods and services at a critical business site on an ad hoc basis, including but not limiting to:
 - a tradesperson, including but not limited to a drainer, gasfitter, plumber, mechanic, electrician, builder, air conditioning or refrigeration worker, metal fabricator, plumber, plasterer; or
 - a delivery driver who delivers goods to a critical business site; by a contractor or subcontractor of the owner, occupier, operator or person apparently in charge of the critical business site.
 - But not including a person who, in order to carry out activities or provide goods or services at a critical business site, is required to come within 1.5 meters of a critical business worker.

Note: This exclusion does not apply to person carrying out activities or providing goods and services to more than one critical business site in a week. For example, a person who on a fortnightly basis goes to site A and B on week 1 and site C and D on week 2.

- A visitor, guest or patron to a critical business site.

What is a critical business site?

Critical business site means each of the following:

- A critical accommodation premises;
- A critical hospitality premises;
- A critical retail, service or distribution premises; or
- Any other place that is specified to be a critical business site by the Chief Health Officer in writing or any person authorised by him for that purpose.

A critical accommodation premises means:

- a hotel, motel, or other accommodation facility or premises to the extent that they provide accommodation services; or
- caravan park or camping ground, but not including any part of a caravan park or camping ground which is a residential park;

A critical hospitality premises means:

- a restaurant, café, pub, bar or club (not including nightclubs) whether licensed or unlicensed (including premises selling food in a food court, shopping centre, or from a vehicle) whether for consumption on site, takeaway meals or a meal delivery service);
- a truckstop or roadhouse; or
- a distillery, brewery or winery, but only to the extent that those premises are used for the providing of food for consumption on site, takeaway meals or a meal delivery service.

A critical retail, service or distribution premises means:

- a supermarket, grocery store, butcher, fruit and vegetable store or fishmonger (including convenience stores and delicatessens);
- a retail bakery;
- a bulk food shop;
- health food shops;
- a permanent fixture indoor or outdoor market but only to the extent that they are providing groceries, meat, fruit, vegetables, fish, fresh or prepared food;
- a bank or credit union or building society but only to the extent that the premises consist of a shopfront;
- a retail hardware store;
- a food distribution centre (excluding food manufactures);
- a petrol station (including but not limited to a petrol station that sells groceries or food);
- a veterinary clinic or veterinary hospital;
- a place where funerals, burials, cremations or related activities are performed, including funeral parlours and crematoriums.

What are the types of exemptions?

Exempt person means each of the following:

- A critical business worker who has a **medical exemption**

Medical exemption means a medical exemption recorded on the Australian Immunisation Register and displayed on the person's Immunisation History Statement.

Further information on medical exemptions is available on the Australian Immunisation Register website. This information specifies that the only reasons a person might be able to get an exemption from having a vaccine are if the person:

- had anaphylaxis after a previous dose of a vaccine;

- had anaphylaxis after a dose of any component of a vaccine; or
- is significantly immunocompromised—for live vaccines only.
- A critical business worker who has a **temporary exemption**

A critical business worker, or their employer or owner, occupier, operator or person in charge of a critical business site may apply for a temporary exemption. A temporary exemption will only last for a limited time.
- Any other critical business worker or class of critical business workers declared to be an **exempt** person by the Chief Health Officer or a person authorised by the Chief Health Officer for that purpose.

An exemption may be subject to terms and conditions. Details about this process are set out in these Guidelines.

For more information about specific exemptions please refer to the Directions available at *Critical Businesses Worker (Restrictions on Access) Directions* (www.wa.gov.au).

Temporary Exemption

How do I apply for a temporary exemption?

A critical business worker may apply for a temporary exemption or their employer or the owner, occupier, operator or person in charge of a critical business site may apply for a temporary exemption on behalf of their staff.

If you are one of the above-mentioned persons and wish to apply for a temporary exemption, please submit a Temporary Exemption Application Form.

As it can take time to determine an application for a temporary exemption, and you may be contacted to provide further information, please submit the Temporary Exemption Application Form well in advance of the time that the temporary exemption is required.

- You do not need to apply for a temporary exemption if you: have a medical exemption; or
- are declared to be an exempt person.

Duration of temporary exemption

A temporary exemption will be granted for a specified period or for a specified purpose, which will be considered on a case by case basis.

Temporary exemption may be subject to terms and conditions

A temporary exemption may be subject to terms and conditions which will be specified in the temporary exemption decision form.

Reasons to apply for a temporary exemption

Critical business worker

Examples of when a temporary exemption may be considered for a critical business worker are as follows:

- if the critical business worker can demonstrate they have taken every effort to access a COVID-19 vaccine registered by the Therapeutic Goods Administration but have been unable to due to supply or access limitations.

- if the critical business worker has been vaccinated against COVID-19 outside Australia with a vaccine that is not registered by the Therapeutic Goods Administration.
- if the critical business worker is in the process of applying for a medical exemption but that process is not yet complete.

Information and evidence to support the application for temporary exemption must be provided.

Employer, owner, occupier, operator or person in charge of a site

The employer or the owner, occupier, operator or person in charge of a critical business site may submit an application for a temporary exemption on behalf of its staff. Examples of when a temporary exemption be considered are as follows:

- if the employer or the owner, occupier, operator or person in charge of a critical business site can demonstrate that they are making every effort to ensure the critical business worker has been vaccinated against COVID-19 but has not yet achieved this.

Information and evidence to support the application for a temporary exemption will need to be provided.

Declaration of an exempt person or class of persons

A person or class of persons may be declared to be exempt. A critical business worker or their employer or the owner, occupier, operator or person in charge of a critical business site may apply for an exemption.

If you are one of the above-mentioned persons and wish to apply to be declared exempt, please submit an Exemption Application Form. Information and evidence to support the application to be declared exempt would need to be provided.

As it can take time to determine an application for an exemption, and you may be contacted to provide further information, please submit the Exemption Application Form well in advance of the time that an exemption is required.

The exemption may be subject to terms and conditions which will be specified in the exemption decision form.

Compelling circumstances must exist for a declaration to be made. For example, an exemption could be granted in rare circumstances where a medical exemption cannot be recorded on the Australian Immunisation Register but advice has been provided by an expert or experts approved by the Chief Health Officer about the need for an exemption.

Approval of temporary exemption / Declaration of exemption

If the temporary exemption is approved or a person or class thereof is declared exempt, an approval/declaration (as the case may be) will be provided to the applicant.

The critical business worker must:

- produce a copy of the exemption approval/declaration for inspection if directed to do so by an emergency officer;
- provide a copy of the exemption approval/declaration to their employer or the owner, occupier, operator or person in charge of a critical business site if required to do so; and
- keep a copy of the exemption approval/declaration available whilst remaining at a critical business site.

If a temporary exemption or exemption is not approved

You will be notified if an application for a temporary exemption or a declaration of an exempt person or class of persons is not approved.

If the application is not approved, the critical business worker who is not vaccinated in accordance with the Directions may not enter or remain on the relevant critical business site.

More information

If you would like more information about the types of exemption and information and evidence that may need to be provided, please contact COVIDVaccinationExemption@health.wa.gov.au.

Further information is available at:

www.wa.gov.au

Call **13 COVID (13 268 43)** for general and quarantine related queries

Dated 10 December 2021

This document can be made available in alternative formats on request for a person with disability.

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