

EMERGENCY MANAGEMENT ACT 2005 (WA)

Sections 67, 70 and 72A

PROOF OF VACCINATION DIRECTIONS (NO 3)

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

On 15 March 2020, the Minister for Emergency Services declared a state of emergency with effect from 12 am on 16 March 2020 in respect of the pandemic caused by COVID-19 pursuant to section 56 of the *Emergency Management Act 2005 (WA)* (**Act**). The state of emergency applies to the State of Western Australia.

I, Christopher John Dawson, Commissioner of Police and State Emergency Coordinator, give the following directions pursuant to my powers under sections 67, 70 and 72A of the Act.

PREAMBLE

1. The purpose of these directions is to set out vaccination and proof of vaccination requirements for certain **premises** in the State of Western Australia for the purposes of preventing, controlling or abating the risks associated with the State of Emergency.

CITATION

2. These directions may be referred to as the **Proof of Vaccination Directions (No 3)**.

COMMENCEMENT

3. These directions come into effect upon signing.

OPERATION

4. These directions apply throughout the whole of the **emergency area**.

REVOCATION

5. The Proof of Vaccination Directions are revoked.

DIRECTIONS

Restriction on Entry by Unvaccinated Patrons

6. A **patron** who is 16 years of age or over must not enter, or remain at a **specified vaccination venue** unless that patron is:
 - (a) **fully vaccinated;**
 - (b) an **exempt person,**

other than where the patron enters or remains at the particular premises in any of the circumstances referred to in paragraph 8(b) to 8(h).

Proof of vaccination information

7. Subject to paragraph 8, a **responsible person** must:
 - (a) request that each patron entering a specified vaccination venue (or cause that each patron entering a specified vaccination venue is requested to) produce the patron's **accepted proof information** for sighting; and
 - (b) take all reasonable steps to ensure that a patron does not remain at the specified vaccination venue for which the person is the responsible person unless they have provided their accepted proof information.

8. A responsible person is not required to comply with paragraph 7 in respect of a patron if:
 - (a) the patron is or appears to be younger than 16 years old;
 - (b) the patron enters or remains at the specified vaccination venue:
 - (i) for the purposes of performing a law enforcement function that cannot reasonably be performed other than by entering the particular premises;
 - (ii) for medical or emergency purposes;
 - (c) the patron is a resident of shared residential premises, such as an apartment complex or retirement village, and is entering or remaining in a space within that residential premises;
 - (d) the patron has a valid **proof exception**, or falls within a class of persons that the State Emergency Coordinator or the Chief Health Officer or a person authorised by the State Emergency Coordinator or the Chief Health Officer for that purpose has identified in writing as being a class of persons to whom a proof exception applies, provided the patron complies with any terms and conditions to which that proof exception is subject;
 - (e) the patron is a patient or a person seeking medical advice, support or care at a **hospital** or a resident at a **residential aged care facility** and is entering or remaining at that hospital or residential aged care facility;

- (f) the patron is a **carer** and is accompanying a person for whom they are caring to a hospital or to receive medical treatment and that person cannot reasonably be accompanied by a person who is fully vaccinated or an exempt person instead;
- (g) the patron is the parent or guardian of a child under the age of 16 years and is accompanying that child to a hospital or to receive medical treatment and the child cannot reasonably be accompanied by a person who is fully vaccinated or an exempt person instead; or
- (h) the patron is a **support person** attending a specified vaccination venue that is a hospital or other medical facility; and
- (i) except in the case of a person referred to in paragraph 8(a) – 8(d), the person complies with:
 - (i) any instructions given to them by a responsible person at the specified vaccination venue regarding the wearing of personal protective equipment, time limits for remaining at the specified vaccination venue and physical distancing requirements; and
 - (ii) **guidelines** (if any) issued by the Chief Health Officer or the State Emergency Coordinator.

9. Except for:

- (a) a child under the age of 16 years; or
- (b) in any of the circumstances referred to in paragraph 8(b) to 8(h),

a patron entering or remaining at a specified vaccination venue must produce a true and accurate copy of their accepted proof information to a **relevant officer** or a member of the **staff** of the venue for sighting upon request at any time while at the specified vaccination venue.

10. A patron who does not produce their accepted proof information in accordance with paragraph 9 must not remain at the specified vaccination venue.

11. A patron who is requested by a relevant officer or a member of staff of a specified vaccination venue to produce their accepted proof information must not act in a

manner that is threatening, intimidating or offensive towards a relevant officer or any member of staff of the specified vaccination venue.

Restriction on Entry by Unvaccinated Staff

12. From the **effective date**, a member of staff must not, in their capacity as a member of staff, enter or remain at a specified vaccination venue other than a hospital or a residential aged care facility unless the member of staff is:
- (a) **vaccine compliant**; or
 - (b) an exempt person; or
 - (c) enters for medical or emergency purposes in a circumstance where those purposes cannot be achieved or performed by a fully vaccinated member of staff or a member of staff who is an exempt person.

*Note: Nothing in these directions affects the operation of any **direction** under the Public Health Act 2016 (WA) or otherwise that restricts access to premises. Staff will still be required to be vaccinated or provide proof of vaccination at hospitals and residential aged care facilities in accordance with existing requirements.*

13. A member of staff of a specified vaccination venue that is not a hospital or residential aged care facility must produce their accepted proof information to a relevant officer or the responsible person for the specified vaccination venue if requested to do so.
14. A responsible person must take all reasonable steps to ensure that any member of staff of a specified vaccination venue that is not a hospital or residential aged care facility does not remain at the specified vaccination venue for which the person is the responsible person unless the member of staff is vaccine compliant or an exempt person.

Note: A staff member who enters a hospital or residential aged care facility will still need to comply with any other directions that restrict access to premises by people who are not fully vaccinated or otherwise exempt from the vaccination requirements.

AUTHORISATION

15. Any police officer acting at or above the rank of Inspector is authorised to identify a class of persons to whom a proof exception applies under paragraphs 8(d) and 66(b) of these directions, including any terms or conditions to which that exception is subject.

INTERPRETATION

16. Any reference in these directions to any other direction made by the State Emergency Coordinator or the Chief Health Officer is deemed to be a reference to that direction as amended or replaced from time to time.

DEFINITIONS

17. **Accepted proof information** means:
- (a) **accepted proof of vaccination;** or
 - (b) **accepted proof of vaccination exemption.**
18. **Accepted proof of vaccination** means **identification** for the person and one of the following showing that the person is fully vaccinated:
- (a) a COVID-19 digital vaccination certificate or an Immunisation History Statement issued to the person showing the COVID-19 vaccinations recorded on the Australia Immunisation Register for the person;
 - (b) an International COVID-19 Vaccination Certificate issued by the Commonwealth Government to the person showing the COVID-19 vaccinations recorded on the Australian Immunisation Register for the person;
 - (c) **a foreign vaccination certificate;**
 - (d) written confirmation of vaccinations issued by the Chief Health Officer or a person authorised by the Chief Health Officer to the person of the COVID-19 vaccinations administered to the person; or
 - (e) a digital certificate contained in an **approved app** showing the COVID-19 vaccinations administered to the person,

provided that in the event that the person provides proof of the kind referred to in paragraph (e), the requirement in this paragraph to produce identification does not apply.

19. **Accepted proof of vaccination exemption** means identification for the person and an Immunisation History Statement issued to the person showing a medical exemption recorded on the Australian Immunisation Register for the person.
20. **Approved app** means the Medicare Express app or the ServiceWA app or any other app or application designated in writing by the State Emergency Coordinator, or a person authorised by the State Emergency Coordinator for that purpose, to be an approved app.
21. **Approved COVID-19 vaccine** means:
 - (a) any vaccine that has been approved by the Therapeutic Goods Administration for use in Australia for the purpose of vaccinating persons against COVID-19;
 - (b) any other vaccine specified by the Chief Health Officer, or any other person authorised by the Chief Health Officer for that purpose, as an approved COVID-19 vaccine.
22. **Authorised officer** has the same meaning that it has in the Act.
23. **Bottleshop** means any premises from which packaged alcohol is sold to the public for consumption off the premises, including any part of the premises constituted by a drive through, provided that where the bottleshop is comprised within some other premises (such as a supermarket), only those parts of the premises where packaged alcohol is located or sold (and only while the purchase of the alcohol is taking place) constitute the bottleshop.
24. **Carer** has the same meaning as in the *Carers Recognition Act 2004* (WA).
25. **Casino** has the same meaning as in the *Casino Control Act 1984* (WA).
26. **Community sport** means organised, community-based team or individual amateur sport played or participated in other than for **valuable remuneration** but does not include activities in the nature of an exercise class which requires payment or a ticket or other form of registration to participate.

27. **Direction** includes any direction under the Act or the *Public Health Act 2016* (WA), whether the direction is given orally or in writing.
28. **Effective date** means 31 January 2022.
29. **Emergency area** means the area to which the state of emergency declared by the Minister for Emergency Services on 15 March 2020 with effect from 12 am on 16 March 2020 applies.
30. **Emergency officer** has the same meaning that it has in the *Public Health Act 2016* (WA).
31. **Event** means any gathering of more than 500 patrons, whether in public or in private, and whether undertaken or engaged in on a for profit or not for profit basis, unless the gathering:
- (a) falls within the terms of an existing approval under section 178 of the *Health (Miscellaneous Provisions) Act 1911* (WA) other than an approval which has been issued on a temporary basis or is expressed to apply only for a fixed period of time; or
 - (b) is an **excluded gathering**.
32. **Excluded event** means:
- (c) an **event** that is being held in an **outdoor space** and which is not a **music event**; or
 - (d) an event that is for the purposes of **community sport**;
 - (e) an event which takes place at a school and involves predominantly members of the school community (such as staff, students and parents of students);
 - (f) any event or class of event designated in writing by the State Emergency Coordinator, or a person authorised by the State Emergency Coordinator for that purpose, or by the Chief Health Officer or a person authorised by the Chief Health Officer to be an excluded event,
- other than a **specified high risk event**.

33. **Excluded gathering** means a gathering:

- (a) at an **outdoor gym**, or a **playground** or **skate park**;
- (b) at an airport that is necessary for the normal business of the airport;
- (c) for the purposes of or related to public transportation, including at public transportation facilities such as stations, platforms and stops;
- (d) at a medical or health service facility that is necessary for the normal business of the facility;
- (e) at a disability or aged care facility that is necessary for the normal business of the facility;
- (f) for the purposes of providing care or assistance (including personal care) to a vulnerable person or providing emergency assistance;
- (g) for the purposes of emergency services;
- (h) at a prison, detention centre, lock up or other place of custody for the purposes of or related to the operation of that place of custody;
- (i) at Parliament for the purposes of its normal operations;
- (j) at a court or tribunal;
- (k) at a food market, supermarket, grocery store, retail store or shopping centre that is necessary for the normal business of those premises;
- (l) at an office building, factory, mining site (including mining site accommodation), construction site or other place of work that is necessary for the normal business of those premises, except premises described in paragraph 33(m);
- (m) at a school, university, educational institution or childcare facility that is necessary for the normal business of the facility;
- (n) at a hotel, motel or other accommodation facility that is necessary for the normal operation of accommodation services;
- (o) in an outdoor space where a gathering of persons may be present for the purpose of transiting through the space;

Example: Forrest Place, Perth.

- (p) in an **indoor space** where a gathering of persons may be present for the purpose of transiting through the space;

Examples: Perth Busport; an elevator or lift.

- (q) in an indoor space or an outdoor space where everyone in the gathering is a member of the same **household**; or
- (r) in or on a vehicle (including a motor vehicle, boat or aircraft), unless the vehicle is being used for the dominant purpose of serving or consuming food or drink.

34. **Excluded venue** means:

- (a) a service station or roadhouse;
- (b) a food court;
- (c) a vessel providing ticketed public transportation, such as a ferry service to Rottnest Island;
- (d) an indoor or outdoor pool, irrespective of whether it is comprised within a place listed in Schedule 1;
- (e) a place of the kind referred to in paragraph 16 of Schedule 1 at a time that it is being used for community sport but not at any other time; or
- (f) any place or venue or class of place or venue designated in writing by the State Emergency Coordinator, or a person authorised by the State Emergency Coordinator for that purpose, or by the Chief Health Officer or a person authorised by the Chief Health Officer to be an **excluded venue**,

as well as any means of access and egress that is strictly necessary for the purposes of accessing a venue referred to in this paragraph, but only at a time that it is being used for access and egress to that venue.

35. **Exempt person** means a person in respect of whom a medical exemption is recorded on the Australia Immunisation Register in relation to the person and is displayed on the person's Immunisation History Statement.

36. **Foreign vaccination certificate** means a certificate that meets the criteria set out by the Australian Passport Office in its guidance on foreign vaccination certificates available at:
- <https://www.passports.gov.au/guidance-foreign-vaccination-certificates>
37. **Full course** means:
- (a) in respect of the SPIKEVAX, VAXZEVRIA and COMIRNATY – BNT162b2 vaccines, two doses of the vaccine administered with an appropriate interval between doses;
 - (b) in respect of the COVID-19 Vaccine Janssen, a single dose of that vaccine; and
 - (c) in respect of any other **COVID-19 vaccine**, such number of doses of that vaccine as specified by the Chief Health Officer or a person authorised by the Chief Health Officer for that purpose.
38. **Fully vaccinated** means a person that has been administered with a **full course** of an approved COVID-19 vaccine.
39. **Gallery** means any of:
- (a) the Goldfields Arts Centre;
 - (b) Perth Institute of Contemporary Arts;
 - (c) Fremantle Arts Centre; or
 - (d) Art Gallery of Western Australia.
40. **Guidelines** means written guidelines issued by the Chief Health Officer setting out requirements which must be followed by persons who enter certain specified vaccination venues without accepted proof information, including in relation to the use of personal protective equipment.
41. **Home** means the premises or place where a person usually resides or other premises (such as a hotel or short stay accommodation) at which a person is able to reside.
42. **Hospital** has the same meaning as in the *Health Services Act 2016* (WA).

43. **Hospitality venue** means:
- (a) that part of any business or premises, including one characterised as a pub, bar, club or tavern, but not a **nightclub**, that supplies alcohol under a licence granted under the *Liquor Control Act 1988* (WA) (but not including any part of the business constituted by a **bottleshop**); or
 - (b) a hotel, whether licensed or unlicensed, except any part of the hotel:
 - (i) constituted by a bottleshop; or
 - (ii) which consists of accommodation or is otherwise necessary or essential to enable a patron to utilise the accommodation (such as lifts and reception services).

Note: if particular premises consist of two or more separate parts and only one part is licensed, then only that part of the premises that falls within the definition of hospitality venue is a specified proof of vaccination venue. Proof of vaccination will be required if the person enters the hospitality venue, but will not be required if, for example, they access a part of the premises that is wholly outside the hospitality venue and is not otherwise captured as a specified vaccination venue.

44. **Household** means two or more persons who usually reside at the same **home**, irrespective of whether those persons are related to each other.
45. **Identification** means one of the primary or secondary documents identified as being acceptable proof of identification in the information available at:

<https://www.wa.gov.au/government/covid-19-coronavirus/covid-19-coronavirus-what-proof-of-covid-19-vaccinations-can-i-use>

provided that any expiry date for the document has not yet passed or any other form of identification which the State Emergency Coordinator or a person nominated by him for that purpose designates in writing to be identification for the purposes of this paragraph.

46. **Indoor entertainment venue of any other kind** means any indoor space that is used for the primary purpose of entertainment and which is open to the public (including upon payment of a fee for entry) and which is not otherwise referred to in Schedule 1 but does not include any space that is a communal space in, or forms parts of the common property of, shared residential premises, such as an apartment complex or a

retirement village, to the extent that is being used by a person who is a resident of those premises.

47. **Indoor space** means an area, room or premises that is or are substantially enclosed by a roof and a **sufficient dividing structure**, regardless of whether the roof or sufficient dividing structure, or any part of them, are permanent or temporary or capable of being opened or closed.
48. **Initial dose** means:
- (a) in respect of the SPIKEVAX, VAXZEVRIA and COMIRNATY – BNT162b2 vaccines, at least one dose of the vaccine administered; and
 - (b) in respect of the COVID-19 Vaccine Janssen, a single dose of that vaccine; and
 - (c) in respect of any other approved COVID-19 vaccine, such number of doses of that vaccine as specified by the Chief Health Officer or a person authorised by the Chief Health Officer for that purpose to be an **initial dose**.
49. **Main Arena** means that part of HBF Stadium located at Stephenson Avenue, Mount Claremont, shown as the main arena in the map attached to these directions as Schedule 2.
50. **Major stadium** means any of:
- (a) Optus Stadium;
 - (b) HBF Park;
 - (c) RAC Arena; or
 - (d) HBF Stadium – **Main Arena**.
51. **Museum** means any of:
- (a) WA Museum Boola Bardip;
 - (b) WA Maritime Museum;
 - (c) the Shipwrecks Museum;
 - (d) Museum of Geraldton;
 - (e) Museum of the Great Southern;

- (f) Museum of the Goldfields; or
 - (g) Gwoonwardu Mia (Carnarvon).
52. **Music event** means an event at which the playing of recorded music or live performances of music or singing is the primary focus of the event.
53. **Nightclub** means a place that has a nightclub licence under section 42 of the *Liquor Control Act 1988* (WA) or another place that is specified in writing by the State Emergency Coordinator, or a person authorised by the State Emergency Coordinator for that purpose, to be a nightclub for the purposes of these directions.
54. **Outdoor gym** means an outdoor space used for, and equipped with, facilities or equipment for exercise.
55. **Outdoor space** means any space that is not an indoor space.
56. **Patron** means a person who is not staff and, for the avoidance of doubt, includes spectators.
57. **Playground** means an outdoor space used for, and equipped with, facilities for recreation, especially by children.
58. **Premises** includes:
- (a) land (whether vacant or not);
 - (b) land covered by water, whether permanently or temporarily or from time to time;
 - (c) the whole or any part of a building or other structure, of whatever type and whether of a permanent or temporary nature; and
 - (d) a vehicle, including a vessel.
59. **Proof exception** means a written exception from the requirement to provide proof of vaccination, issued by the Chief Health Officer or the State Emergency Coordinator or a person approved by either of them for the purposes of these directions, which exception may be issued subject to terms and conditions.
60. **Relevant officer** means:
- (a) an **authorised officer**;
 - (b) an **emergency officer**; or

- (c) a **responsible officer**.
61. **Residential aged care facility** has the same meaning as in the Residential Aged Care Facility Worker Access Directions (No 4) made by the Chief Health Officer pursuant to the *Public Health Act 2016* (WA).
62. **Responsible officer** means:
- (a) an officer, employee or contractor of the Department of Health;
 - (b) an officer, employee or contractor of a health services provider; or
 - (c) any other person authorised by the Chief Health Officer orally or in writing to perform a function for the purposes of these directions.
63. **Responsible person**, in relation to particular premises, means the occupier or other person apparently in charge of those premises.
64. **Skate park** means a facility specifically designed for skateboarding, rollerskating or rollerblading, containing structures such as ramps and basins.
65. **Specified high risk event** means an event or class of event designated in writing by the State Emergency Coordinator, or a person authorised by the State Emergency Coordinator for that purpose, or by the Chief Health Officer or a person authorised by the Chief Health Officer to be a specified high risk event.
66. **Specified vaccination venue** means:
- (a) that part of any place that is comprised of a place listed in Schedule 1, except if that place (or that part of a place) is an excluded venue; and
 - (b) any other place or venue, or class of place or venue designated in writing by the State Emergency Coordinator, or a person authorised by the State Emergency Coordinator for that purpose, to be a specified vaccination venue and for the avoidance of doubt, such a designation may also be expressed to apply to a particular place or venue, or class of place or venue, only at a time when it is being used for a particular purpose or purposes.
67. **Staff** means a person who has responsibilities at a place as an officer or employee or in some other capacity (including a voluntary capacity) and includes:
- (a) in the case of a sporting activity, coaches and officials such as umpires, referees or scorekeepers; and

- (b) in the case of a religious service at a place of worship:
 - (i) a person who leads or presides at the service, such as an imam, priest or rabbi; and
 - (ii) persons who assist the person who leads or presides at the service (including those who would ordinarily read from scripture or some other sacred text to a congregation or other group gathered to participate in the service); and
 - (iii) persons present for the purpose of live streaming or recording the service.

68. **Sufficient dividing structure** means a wall or other structure which:

- (a) substantially comprises material that is impervious to air flow; and
- (b) is anchored to the ground or floor in a way which ensures that it cannot be lifted or pushed apart; and
- (c) either:
 - (i) reaches from the ground or floor to the ceiling (or roof if there is no ceiling); or
 - (ii) starts from the ground or floor and is at least 2 metres high from the ground or floor to its lowest vertical point measured from the ground or floor.

Note: In addition to meeting these requirements, a sufficient dividing structure must comply with any other legal requirements applicable to the structure in any way, including any legal requirements relating to the structural integrity of the structure (such as, but not limited to, requirements typically imposed or administered by local governments).

69. **Support person** means a person who is:

- (a) a birthing partner for a person attending a hospital or other medical facility for a purpose connected with the birth of a child; or
- (b) attending a hospital or other medical facility, including a palliative support facility, for the purposes of providing end of life support or care to a member

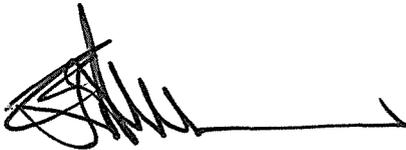
of the person's family or for a purpose directly related to end of life support or care for a member of the person's family.

70. **Vaccine compliant** means:
- (a) at any time prior to 28 February 2022, a person who has had an initial dose; and
 - (b) on and from 28 February 2022, a person who is fully vaccinated.
71. **Valuable remuneration** means financial or in-kind payments of more than a nominal sum.
72. **Wildlife park** means an amusement park at which the dominant form of amusement or entertainment relates to any or all of exposure to, or experiences with, or viewing wildlife but, for the avoidance of doubt, does not include Perth Zoo.

Example: Caversham Wildlife Park is an amusement park which falls within this definition of a wildlife park.

PENALTIES

A failure to comply with these directions may be an offence which is punishable by imprisonment for up to 12 months or a fine of up to \$50,000 for individuals and \$250,000 for bodies corporate.



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Christopher John Dawson
State Emergency Coordinator and Commissioner of Police

4 February 2022 1610 hours

SCHEDULE 1
SPECIFIED VACCINATION VENUES

1. a **hospitality venue**;
2. a restaurant, café, dine in fast food store or other place of business selling prepared food or drink for consumption at the place (excluding an individual business selling food or drink in a food court or from an outdoor food or drink truck or cart), except to the extent that any food or drink is supplied in a drive through or as takeaway for consumption other than at the place from which it was purchased;
3. a bottleshop;
4. a nightclub;
5. a **casino**;
6. the Crown Perth complex other than any part of that complex providing accommodation;
7. a gaming or gambling house;
8. an **indoor entertainment venue of any other kind**;
9. a **gallery**;
10. a **museum**;
11. a cinema (including a drive-in cinema or outdoor cinema);
12. a theatre;
13. a concert hall or other live music venue;
14. the Perth Convention Exhibition Centre;
15. a **major stadium**;
16. a gym, indoor sporting centre, health club or dance studio (including a centre offering yoga, barre, pilates, aerobics, dancing or spin facilities or other fitness class), but not including any outdoor gym, outdoor skate park or playground;
17. an indoor play centre;
18. an amusement park (excluding a **wildlife park**) which has ticketed entry or a managed point of entry;
19. the Perth Zoo;

20. a place where an event, other than an **excluded event** is, at the time, being held;
21. a hospital (whether public or private); and
22. a residential aged care facility.

**SCHEDULE 2
HBF MAIN ARENA MAP**

