

Australian Capital Territory

Public Health (Health Care and Support Workers COVID-19 Vaccination) Emergency Direction 2021

Notifiable Instrument NI2021- 613

made under the

Public Health Act 1997, s 120 (Emergency actions and directions)

1. Name of instrument

This instrument is the *Public Health (Health Care and Support Workers COVID-19 Vaccination) Emergency Direction 2021*.

2. Commencement

This instrument commences at 11:59 pm on 15 October 2021.

3. Public Health Emergency Direction

I, Dr Vanessa Johnston, Acting Chief Health Officer, consider it necessary or desirable to alleviate the emergency declared under the *Public Health (Emergency) Declaration 2020 (No 1)* [NI2020-153] (the **declared emergency**) on 16 March 2020, to give the directions as set out in the schedule.

4. Duration

This Direction is in force for the period ending on the day the declared emergency (as extended or further extended) ends, unless it is earlier revoked.

Dr Vanessa Johnston
Acting Chief Health Officer

15 October 2021

Public Health Emergency Direction

Public Health Act 1997

*Made under the Public Health Act 1997,
section 120 (Emergency actions and directions)*

I, Dr Vanessa Johnston, Acting Chief Health Officer, consider it necessary or desirable to alleviate the emergency declared under the *Public Health (Emergency) Declaration 2020 (No 1)* [NI2020-153] (the **declared emergency**) on 16 March 2020, to give the directions as set out below.

The purpose of this Direction is to limit the spread of coronavirus disease 2019 (**COVID-19**), caused by the novel coronavirus SARS-CoV-2 within a particularly vulnerable population by restricting this vulnerable population from being exposed to unvaccinated workers within health care facilities.

I consider the Direction is necessary or desirable to alleviate the **COVID-19** emergency on the grounds that:

- a. the Australian Capital Territory has experienced persistent community transmission since the introduction of **COVID-19** on 12 August 2021;
- b. the Delta variant of **COVID-19** (labelled as a variant of concern) has proven highly transmissible both nationally and internationally, demonstrating that elimination of the virus is not feasible and community transmission will continue as the Australian Capital Territory seeks to mitigate the impact of this public health risk;
- c. the health care system plays a vital role in public health and safety, together with the likelihood that health facilities will be caring for people diagnosed with **COVID-19**, and those at a higher risk of severe illness or death from **COVID-19**;
- d. high vaccination rates reduce the likelihood of **COVID-19** outbreaks providing protection against severe illness or death and a reduction in the risk of onward transmission of **COVID-19**.

In making these directions I have had regard to relevant human rights and I am satisfied that the limitations imposed as a result of these Directions are both demonstrably justifiable in a free and democratic society and necessary to protect the ACT community from the serious public health risk posed by COVID-19.

PART 1 – RESTRICTED ACCESS TO HEALTH CARE FACILITIES BY WORKERS

A. Directions

1. A **worker** for a **health care facility** must not work at the premises of a **health care facility** for work in the Australian Capital Territory:
 - a. unless:
 - i. if the work is done on or after 29 October 2021 but before 1 December 2021, the **worker** has received at least one dose of a **COVID-19 vaccination**; and
 - ii. if the work is done on or after 1 December 2021, the **worker** has received two doses of a **COVID-19 vaccination**; or
 - b. unless they are a **permitted person** or a **worker** who has been granted an exemption for **COVID-19 vaccination** under paragraph 9.
2. The **operator** of a **health care facility** must take all reasonable steps to ensure that a **worker** does not work at the premises of the **health care facility** if the **worker** is prohibited from doing so under paragraph 1.
3. A **worker** must provide **evidence of vaccination status** or **evidence of exemption** if required to do so by the **operator** of a **health care facility**.
4. The **operator** of a **health care facility** must:
 - a. take all reasonable steps to collect and maintain **evidence of vaccination status** or **evidence of exemption** for each **worker** of the **health care facility** prior to a **worker** attending work at a **health care facility** under paragraph 1; and
 - b. on request, provide any **evidence of vaccination status** or **evidence of exemption** that the **operator** has collected and maintained to an **authorised person** as soon as practicable after the request is made; and
 - c. not use or disclose **evidence of vaccination status** or **evidence of exemption** except:
 - i. as is provided for by this Direction; or
 - ii. as permitted or required by any other law; or
 - iii. to the extent that the person expressly provided their **evidence of vaccination status** for a purpose other than these directions; and

- d. take all reasonable steps to protect any **evidence of vaccination status** or **evidence of exemption** that it holds from:
 - i. misuse and loss; and
 - ii. unauthorised access, modification or disclosure.

Note: **Evidence of vaccination status** is a health record for the purposes of the *Health Records (Privacy and Access) Act 1997*. An operator will have obligations under the *Health Records (Privacy and Access) Act 1997* in relation to the record including collection, storage, use, access, and disclosure of the record.

PART 2 – MATTERS RELEVANT TO THESE DIRECTIONS

A. Enforcement

5. An **authorised person** may ask a person for any information necessary to determine whether the person is complying with this Direction.
6. Any person must comply with any request made under paragraph 5 by an authorised person.
7. If a person fails to comply with this Direction, an **authorised person** may direct the person to do such things as are reasonably necessary to comply with this Direction, including, upon request, to produce proof of identification to the **authorised person**.

B. Exemptions

8. The Chief Health Officer may, in writing and subject to any conditions that the Chief Health Officer considers necessary, exempt a person from this Direction.
9. Without limiting paragraph 8, the Chief Health Officer or an authorised delegate may provide an exemption from this Direction to:
 - a. a person who is unable, due to a medical contraindication, to receive a **COVID-19 vaccination**; or
 - b. a person for whom a **COVID-19 vaccination** is not reasonably available.
10. If the Chief Health Officer exempts a person from this Direction, or a stated requirement under this Direction, that person must comply with the conditions of the exemption.

C. Definitions

For the purposes of these directions:

11. **Ad hoc volunteer** means a person who provides goods or services at a **healthcare facility** in a voluntary or unpaid capacity, and does so on a non-systematic basis.

12. **Ambulance officer** means:
 - a. a member of the ambulance service who works on an ambulance; or
 - b. a person who works on a patient transport vehicle for a provider approved to provide services in the ACT under s 62 of the *Emergencies Act 2004*.
13. **Authorised person** means an authorised person under section 121 of the *Public Health Act 1997*.
14. **Carer** means a person who provides personal care, support and assistance to another individual to support their daily activities of living and is not employed or otherwise engaged by the relevant **health care facility**
15. **COVID-19** means the Coronavirus disease 2019, caused by the novel coronavirus SARS-CoV-2.
16. **COVID-19 vaccination** means the SARS-COV-2 (COVID-19) vaccine listed in the medicines and poisons standard (within the meaning of the *Medicines, Poisons and Therapeutic Goods Act 2008*, section 15) schedule 4.
17. **Day hospital** means a facility where a person is admitted for surgical or medical treatment and discharged on the same day.
18. **Evidence of exemption** means a copy of an exemption issued by the Chief Health Officer or an authorised delegate pursuant to paragraph 9 of this Direction.
19. **Evidence of vaccination status**, for a **worker**, means evidence from the Australian Immunisation Register kept under the *Australian Immunisation Register Act 2015* (Cth), or any other evidence in the form approved by the Chief Health Officer, that the **worker** has had 1 or more doses of a **COVID-19 vaccine**.

Example— An online immunisation history statement or **COVID-19** digital certificate from the Australian Immunisation Register
20. **Guardian** means someone who is a guardian, health attorney, power of attorney, carer, manager or any other person necessary to make decisions for a patient at a **health care facility**.
21. **Health care facility** means:
 - a. a **hospital**, including a **day hospital**; or
 - b. a hospice; or
 - c. all health care facilities operated by Canberra Health Services.



22. **Hospital** includes a public and private hospital.
23. **Operator**, for a **health care facility**, means the owner, occupier, or person in charge (however described) of the **health care facility**.
24. **Permitted person** means a person described in Column 2 of the table in Attachment A.
25. **Worker**, for a **health care facility**, means a person described in Column 1 of the table in Attachment A and excludes a **permitted person**.

Dr Vanessa Johnston

Acting Chief Health Officer

15 October 2021

PENALTIES

Section 120 (4) of the *Public Health Act 1997* provides:

A person must not, without reasonable excuse, fail to comply with a direction under this section.

Maximum Penalty:

In the case of a natural person, \$8,000 (50 penalty units).

In the case of a body corporate, \$40,500 (50 penalty units).

In the case of a utility that is a body corporate, \$1,620,000 (2000 penalty units).

Attachment A – Workers and Permitted Persons

Item	Column 1 – Workers	Column 2 – Permitted Persons
1	<p>Any person who provides health, medical, dental, nursing, pathology, pharmaceutical, social work or allied health services to a patient at the health care facility, including in a voluntary or unpaid capacity.</p> <p><i>Examples:</i></p> <ul style="list-style-type: none"> - A person employed as a nurse by a hospital; - A person employed by a third party who provides pharmaceutical services at a hospital on behalf of the owner of a hospital. 	<p>The following people:</p> <ul style="list-style-type: none"> a. An ad hoc volunteer; or b. A carer.
2	<p>A person who provides direct care to a Patient at the health care facility.</p>	
3	<p>A person who is a student and is on a placement at a health care facility as a formal part of their education.</p>	
4	<p>An ambulance officer.</p>	
5	<p>Any person who provides goods or services at a health care facility in a regular and systematic way, whether in a paid or voluntary capacity, including:</p> <ul style="list-style-type: none"> a. A person who is employed or engaged by a third party who provides goods and services at the health care facility, including a labour hire firm who provides staff to supplement the permanent workforce; b. A direct care worker, including a personal care worker; c. An administrative staff member including a person working in administration, information technology, management or reception services; 	<p>The following people:</p> <ul style="list-style-type: none"> a. A person who is a family member or friend of a patient; b. A carer; c. A guardian for a patient at a health care facility; d. An ad hoc volunteer; e. Any of the following in-reach service providers or contractors, unless they are employed or otherwise engaged, including in a regular and systematic way whether in a paid or voluntary capacity, by the owner or operator of a healthcare facility: <ul style="list-style-type: none"> i. A delivery driver or person providing one-off trade deliveries;

<ul style="list-style-type: none"> d. An ancillary staff member including a cleaner, a laundry staff member, a gardener, a person performing food preparation services, a security officer, store person, supply services person, and a person providing maintenance or construction services; e. A person providing lifestyle and social care, including a person providing music or art therapy f. A transport driver who transports patients of the health care facility; g. A person who provides commercial activities at premises that constitute a health care facility whether pursuant to any lease, licence or otherwise. h. A pastoral care worker or clergy who is engaged as a contractor by the health care facility. i. Members of the public providing regular volunteer services at the health care facility. 	<ul style="list-style-type: none"> ii. A tradesperson or contractor who attends to provide urgent maintenance or repair services, or otherwise on a non-systematic basis; iii. A patient's personal minister / pastoral care worker or clergy who is not engaged as a contractor by the health care facility and attends on an irregular basis; or iv. A legal practitioner.
---	--

Accessibility

If you have difficulty reading a standard printed document and would like an alternative format, please phone 13 22 81.



If English is not your first language and you need the Translating and Interpreting Service (TIS), please call 13 14 50.

For further accessibility information, visit: www.health.act.gov.au/accessibility

www.health.act.gov.au | Phone: 132281

© Australian Capital Territory, Canberra October 2021