

# **Guidance for the Pandemic COVID-19 Mandatory Vaccination (Specified Workers) Order 2022 (No. 2)**

This order requires employers to not permit a worker to work outside their ordinary place of residence if they are unvaccinated or partially vaccinated or not fully vaccinated (boosted) (as applicable) in order to limit the spread of COVID-19 within the population of those workers.

Specified workers are listed in Schedule 1.

Amongst other things, this Order requires employers of specified workers to:

- (1) collect, record and hold certain vaccination information of workers;
- (2) not permit specific unvaccinated or partially vaccinated workers from working outside the worker's ordinary place of residence;
- (3) if a booster deadline is specified in relation to a worker, the employer must not, after that date, permit the worker to work outside their ordinary place of residence unless the worker is fully vaccinated (boosted) or an excepted person; and
- (4) notify current and new workers that the employer is obliged to collect, record and hold vaccination information about the worker and to not permit the worker who is unvaccinated or partially vaccinated or not fully vaccinated (boosted) from working outside the worker's ordinary place of residence, as applicable.

Exceptional circumstances are set out in this Order where an operator is not required to comply with this Order. Otherwise, failure to comply with this Order may result in penalties.

*This guidance does not form part of the Pandemic COVID-19 Mandatory Vaccination (Specified Workers) Order 2022 (No. 2) and is for explanatory purposes only.*

# **Pandemic COVID-19 Mandatory Vaccination (Specified Workers) Order 2022 (No. 2)**

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## **Pandemic COVID-19 Mandatory Vaccination (Specified Workers) Order 2022 (No. 2)**

I, Martin Foley, Minister for Health, make the following Order under the **Public Health and Wellbeing Act 2008** in the belief that this Order is reasonably necessary to protect public health throughout Victoria from the serious risk arising from the coronavirus (COVID-19) pandemic disease.

### **Part 1 — Preliminary**

#### **1. Objective**

- (1) The objective of this Order is to impose obligations upon employers in relation to the vaccination of workers, in order to limit the spread of COVID-19 within the population of those workers.
- (2) This Order must be read together with the pandemic orders in force.

#### **2. Citation**

This Order may be referred to as the **Pandemic COVID-19 Mandatory Vaccination (Specified Workers) Order 2022 (No. 2)**.

#### **3. Authorising provision**

This Order is made under section 165AI of the **Public Health and Wellbeing Act 2008**.

#### **4. Commencement and revocation**

- (1) This Order commences at 11:59:00pm on 12 January 2022 and ends at 11:59:00pm on 12 April 2022.
- (2) The **Pandemic COVID-19 Mandatory Vaccination (Specified Workers) Order 2021 (No. 1)** is revoked at 11:59:00pm on 12 January 2022.

#### **5. Definitions**

In this Order:

- (a) key definitions are contained in Division 1 of Schedule 2;
- (b) worker specific definitions are contained in Division 2 of Schedule 2; and
- (c) other definitions are contained in Division 3 of Schedule 2.

## **6. Application of this Order**

This Order applies to the whole State of Victoria.

## **Part 2 — Employer Obligations**

### **Division 1 — Employer must collect, record and hold vaccination information**

#### **7. Vaccination information**

(1) If a worker is, or may be, scheduled to work outside the worker's ordinary place of residence after the commencement of this Order, the employer of the worker must collect, record and hold the following vaccination information about the worker:

- (a) the worker's vaccination status; and
- (b) if the worker is fully vaccinated – the date on which the person became fully vaccinated.

(2) If:

- (a) a worker has a booster deadline; and
- (b) the worker is, or may be, scheduled to work outside the worker's ordinary place of residence after that date,

the employer must collect, record and hold the following vaccination information about the worker:

- (c) whether the worker is fully vaccinated (booster); and
- (d) if the worker is fully vaccinated (boosted) – the date on which the person became fully vaccinated (boosted).

#### **8. Timing**

- (1) An employer must comply with the obligations in clause 7(1) as soon as reasonably practicable after the commencement of this Order.
- (2) An employer must comply with the obligations in clause 7(2) before the booster deadline.

#### **9. Exception - fully vaccinated and excepted persons**

- (1) Clause 7(1)(a) does not apply in relation to a worker if the employer already holds information that the worker:

- (a) is fully vaccinated; or
  - (b) will be an excepted person for the period beginning when this Order commences and ending when this Order ends.
- (2) Clause 7(1)(b) and 7(2) do not apply in relation to a worker if the employer already holds the information specified in those subclauses.

## **Division 2 — Employer must ensure unvaccinated workers do not work outside ordinary place of residence**

### **10. No work outside ordinary place of residence**

#### *Unvaccinated and partially vaccinated workers*

- (1) An employer of a worker must not permit a worker to work for that employer outside the worker's ordinary place of residence unless the worker is fully vaccinated or an excepted person.

#### *Booster deadlines*

- (2) If a booster deadline is specified in relation to a worker, an employer of the worker must not, after that date, permit the worker to work for that employer outside the worker's ordinary place of residence unless the worker is fully vaccinated (boosted) or an excepted person.

#### *Where employer does not hold information about vaccination status*

- (3) For the purposes of this clause, if an employer does not hold information about the vaccination status of a worker, the employer must treat the worker as if the worker is unvaccinated.

### **11. Exception – agricultural and forestry workers**

Despite clause 10(1), an employer of an agricultural and forestry worker may permit an agricultural and forestry worker to work for that employer outside the worker's ordinary place of residence if the worker:

- (1) is unvaccinated or partially vaccinated; and
- (2) is employed or engaged by the employer through the Pacific Australia Labour Mobility scheme; and
- (3) has a booking to receive a dose of a COVID-19 vaccine that will cause the worker to become partially vaccinated or fully vaccinated within 4 weeks of arriving in Australia.

## **12. Exception – self-quarantine or self-isolation**

Despite clause 10(2), an employer may permit a worker who is not fully vaccinated (boosted) or an excepted person to work for that employer outside of the worker's ordinary place of residence if the worker:

- (1) was unable to become fully vaccinated (boosted) before the relevant booster deadline because they were in self-quarantine or self-isolation under the Quarantine, Isolation and Testing Order; and
- (2) has a booking to receive, within 1 week of the end of the period of self-quarantine or self-isolation as determined under the Quarantine, Isolation and Testing Order, a dose of a COVID-19 vaccine that will cause the worker to become fully vaccinated (boosted).

## **Division 3 – Employer to notify workers**

### **13. Authorisation to use vaccination information**

For the purposes of complying with Division 2 of Part 2, an employer is authorised to use any information about a worker that it holds under clause 7, except a worker's Individual Healthcare Identifier.

*Note: a COVID-19 digital certificate issued by Services Australia may include a person's Individual Healthcare Identifier. Individual Healthcare Identifiers are regulated by the Healthcare Identifiers Act 2010 of the Commonwealth.*

### **14. Notification to current workers**

- (1) Unless an exception applies under this Order, an employer of a worker must, as soon as reasonably practicable after the commencement of this Order, inform each worker who is, or may be, scheduled to work outside the worker's ordinary place of residence that:
  - (a) clause 7 obliges the employer to collect, record and hold the information specified in that clause in relation to the worker; and
  - (b) clause 10(1) obliges the employer not to permit a worker to work for that employer outside the worker's ordinary place of residence unless the worker is fully vaccinated or an excepted person; and
  - (c) if a booster deadline is specified in relation to a worker, clause 10(2) obliges the employer to not permit the worker to work for that employer outside the worker's ordinary place of residence unless the worker is fully vaccinated (boosted) or an excepted person.
- (2) Subclause (1) does not apply to the extent that the employer has previously notified the worker of the matters specified in that subclause under a Revoked

COVID-19 Mandatory Vaccination (Specified Workers) Order or its predecessors.

#### **15. Notification to new workers**

Unless an exception applies under this Order, if an employer engages a worker who is, or may be, scheduled to work outside the worker's ordinary place of residence, the employer must inform the worker, as soon as reasonably practicable after engaging the worker, that:

- (a) clause 7 obliges the employer to collect, record and hold the information specified in that clause in relation to the worker; and
- (b) clause 10(1) obliges the employer not to permit a worker to work for that employer outside the worker's ordinary place of residence, unless the worker is fully vaccinated or an excepted person; and
- (c) if a booster deadline is specified in relation to a worker; clause 10(2) obliges the employer to not permit the worker to work for that employer outside the worker's ordinary place of residence unless the worker is fully vaccinated (boosted) or an excepted person.

### **Division 4 – Exceptions and other employer obligations**

#### **16. Exception — exceptional circumstances**

- (1) An employer of a worker is not required to comply with clause 10 if one or more of the exceptional circumstances specified in subclause (2) applies.
- (2) The exceptional circumstances are:
  - (a) a worker is required to perform work or duties that is or are necessary to provide for urgent specialist clinical or medical care due to an emergency situation or a critical unforeseen circumstance; or
  - (b) a worker is required to fill a vacancy to provide urgent care, to maintain quality of care and/or to continue essential operations due to an emergency situation or a critical unforeseen circumstance; or

*Example 1: a large number of workers furloughed due to exposure at a Tier 1 site.*

*Example 2: a medical practitioner is required to work outside their ordinary place of residence on short notice due to an emergency situation.*

- (c) a worker is required to respond to an emergency; or
- (d) a worker is required to perform urgent and essential work to protect the health and safety of workers or members of the public, or to protect assets and infrastructure.

- (3) If a circumstance specified in subclause (2) applies, the employer must take all reasonable steps to ensure that the worker does not work outside the worker's ordinary place of residence for any longer than the period of time necessary to respond to the exceptional circumstance.

#### **17. Disclosure to authorised officers**

- (1) An authorised officer may request an employer to produce to the authorised officer any vaccination information held by the employer under clause 7, except any Individual Healthcare Identifiers that the employer might hold.
- (2) If an authorised officer makes a request to a person under subclause (1), the person must comply with the request.

*Note: authorised officers may also be authorised to exercise the public health risk power in section 190(1)(d) of the Public Health and Wellbeing Act 2008 to require the provision of any information needed to investigate, eliminate or reduce the risk to public health.*

### **Part 3 – General provisions**

#### **18. Severability**

To the extent that any part of this Order is held to be in excess of power or otherwise invalid it is intended that it is to be taken to be valid to the extent to which it is not in excess of that power.

#### **19. Transitional provisions**

- (1) A reference in any pandemic order in force to a Revoked COVID-19 Mandatory Vaccination (Specified Workers) Order is taken on and after the commencement of this Order to be a reference to this Order.
- (2) Any act, matter or thing that had effect under a Revoked COVID-19 Mandatory Vaccination (Specified Workers) Order immediately before it was revoked continues to have effect under this Order.
- (3) Without limiting subclause (2), this Order is subject to any exemption, benefit, requirement or entitlement (however described) to which a Revoked COVID-19 Mandatory Vaccination (Specified Workers) Order was subject immediately before it was revoked.
- (4) This clause is subject to any express provision to the contrary in this Order.

## Part 4 — Penalties

### 20. Penalties

Section 165BN of the **Public Health and Wellbeing Act 2008** provides:

#### **Failure to comply with pandemic order, direction or other requirement**

- (1) A person commits an offence if the person refuses or fails to comply with a pandemic order, or with a direction given to the person, or a requirement made of the person, in the exercise of a pandemic management power.

Penalty: In the case of a natural person, 60 penalty units;

Penalty: In the case of a body corporate, 300 penalty units.

- (2) A person is not guilty of an offence against section (1) if the person had a reasonable excuse for refusing or failing to comply.

*Note: the **Public Health and Wellbeing Regulations 2019** provide for infringement notices to be served on any person who has refused or failed to comply (without a reasonable excuse) with a pandemic order, or a direction given or a requirement made in the exercise of a pandemic management power. The amount payable pursuant to the infringement notice varies depending on the nature of the failure or refusal and the age of the person.*

## Schedule 1 —Workers

Row	Worker (Column 1)	Booster deadline (Column 2)	Worker-specific definitions
1.	accommodation worker	Not applicable	Schedule 2, Division 2, Clause 4
2.	agricultural and forestry worker	Not applicable	Schedule 2, Division 2, Clause 5
3.	airport worker	Not applicable	Schedule 2, Division 2, Clause 6
4.	ancillary, support and welfare worker	Not applicable	Schedule 2, Division 2, Clause 7
5.	authorised officer	Not applicable	Schedule 2, Division 2, Clause 8
6.	care worker	Not applicable	Schedule 2, Division 2, Clause 9
7.	community worker	Not applicable	Schedule 2, Division 2, Clause 10
8.	creative arts worker	Not applicable	Schedule 2, Division 2, Clause 11
9.	custodial worker	<p>For workers that became fully vaccinated on or before 12 September 2021, the deadline is 12 February 2022.</p> <p>For workers that became fully vaccinated after 12 September 2021, the deadline is 12 March 2022.</p>	Schedule 2, Division 2, Clause 12
10.	disability worker	For workers that became fully vaccinated on or before 12 September	Schedule 2, Division 2, Clause 13

Row	Worker (Column 1)	Booster deadline (Column 2)	Worker-specific definitions
		<p>2021, the deadline is 12 February 2022.</p> <p>For workers that became fully vaccinated after 12 September 2021, the deadline is 12 March 2022.</p>	
11.	emergency service worker	<p>For workers that became fully vaccinated on or before 12 September 2021, the deadline is 12 February 2022.</p> <p>For workers that became fully vaccinated after 12 September 2021, the deadline is 12 March 2022.</p>	Schedule 2, Division 2, Clause 14
12.	entertainment and function worker	Not applicable	Schedule 2, Division 2, Clause 15
13.	food distribution worker	<p>For workers that became fully vaccinated on or before 12 September 2021, the deadline is 12 February 2022.</p> <p>For workers that became fully vaccinated after 12 September 2021, the deadline is 12 March 2022.</p>	Schedule 2, Division 2, Clause 16
14.	funeral worker	Not applicable	Schedule 2, Division 2, Clause 17

Row	Worker (Column 1)	Booster deadline (Column 2)	Worker-specific definitions
15.	higher education worker	Not applicable	Schedule 2, Division 2, Clause 18
16.	justice worker	Not applicable	Schedule 2, Division 2, Clause 19
17.	manufacturing worker	Not applicable	Schedule 2, Division 2, Clause 20
18.	marriage celebrant	Not applicable	Schedule 2, Division 2, Clause 21
19.	meat and seafood processing worker	For workers that became fully vaccinated on or before 12 September 2021, the deadline is 12 February 2022.  For workers that became fully vaccinated after 12 September 2021, the deadline is 12 March 2022.	Schedule 2, Division 2, Clause 22
20.	media and film production worker	Not applicable	Schedule 2, Division 2, Clause 23
21.	mining worker	Not applicable	Schedule 2, Division 2, Clause 24
22.	physical recreation worker	Not applicable	Schedule 2, Division 2, Clause 25
23.	port or freight worker	Not applicable	Schedule 2, Division 2, Clause 26
24.	professional sports, high-performance sports or racing person	Not applicable	Schedule 2, Division 2, Clause 27

<b>Row</b>	<b>Worker (Column 1)</b>	<b>Booster deadline (Column 2)</b>	<b>Worker-specific definitions</b>
25.	professional services worker	Not applicable	Schedule 2, Division 2, Clause 28
26.	public sector worker	Not applicable	Schedule 2, Division 2, Clause 29
27.	quarantine accommodation worker	For workers that became fully vaccinated on or before 12 September 2021, the deadline is 12 February 2022.  For workers that became fully vaccinated after 12 September 2021, the deadline is 12 March 2022.	Schedule 2, Division 2, Clause 30
28.	real estate worker	Not applicable	Schedule 2, Division 2, Clause 31
29.	religious worker	Not applicable	Schedule 2, Division 2, Clause 32
30.	repair and maintenance worker	Not applicable	Schedule 2, Division 2, Clause 33
31.	retail worker	Not applicable	Schedule 2, Division 2, Clause 34
32.	science and technology worker	Not applicable	Schedule 2, Division 2, Clause 35
33.	social and community service worker	Not applicable	Schedule 2, Division 2, Clause 36
34.	transport worker	Not applicable	Schedule 2, Division 2, Clause 37

<b>Row</b>	<b>Worker (Column 1)</b>	<b>Booster deadline (Column 2)</b>	<b>Worker-specific definitions</b>
35.	utility and urban worker	Not applicable	Schedule 2, Division 2, Clause 38
36.	veterinary and pet/animal care worker	Not applicable	Schedule 2, Division 2, Clause 39

## Schedule 2 — Definitions

### Division 1 — Key definitions

#### 1. Vaccination status

- (1) A person's **vaccination status** is one of the following:
  - (a) fully vaccinated (boosted); or
  - (b) fully vaccinated; or
  - (c) partially vaccinated; or
  - (d) unvaccinated; or
  - (e) excepted person.
- (2) A person is **fully vaccinated** if the person has received:
  - (a) one dose of a one dose COVID-19 vaccine; or
  - (b) two doses of a two dose COVID-19 vaccine including two different types of two dose COVID-19 vaccines.
- (3) A person is **fully vaccinated (boosted)** if the person has received a booster dose.
- (4) A person is **partially vaccinated** if the person has received one dose of a two dose COVID-19 vaccine and is not an excepted person.
- (5) A person is **unvaccinated** if the person has not received a dose of a COVID-19 vaccine and is not an excepted person.
- (6) A person is an **excepted person** if the person holds acceptable certification that the person is unable to receive a dose, or a further dose, of any COVID-19 vaccine that is available in Australia due to:
  - (a) a medical contraindication; or
  - (b) an acute medical illness (including where the person has been diagnosed with COVID-19).
- (7) An **acceptable certification** for the purpose of subclause (6) is:
  - (a) a current COVID-19 digital certificate issued by Services Australia and displayed through the Medicare App, Service Victoria App or equivalent smartphone wallet, that states that the person is unable to receive a dose, or a further dose, of any COVID-19 vaccine that is available in Australia; or

- (b) a printed version of the COVID-19 digital certificate referred to in subparagraph (a).
- (8) A **booster deadline** in relation to a worker is the date specified in Column 2 of Schedule 1 for that worker.
- (9) A person has received a **booster dose** if they have received:
  - (a) a second dose of a COVID-19 vaccine after receiving one dose of a one dose COVID-19 vaccine; or
  - (b) a third dose of a COVID-19 vaccine after receiving two doses of a two dose COVID-19 vaccine including different types of two dose COVID-19 vaccines.

## 2. Vaccination information

For the purposes of this Order, **vaccination information** is information relating to a person's vaccination status and includes:

- (1) any information that is derived from a record of information that was made under, or in accordance with, the Australian Immunisation Register Act 2015 of the Commonwealth; and
- (2) the name or type of any dose of COVID-19 vaccine received by the person; and
- (3) the date on which the person received any dose of a COVID-19 vaccine.

*Note: vaccination information may be recorded in a variety of documents, such as a letter from a medical practitioner, a certificate of immunisation or an immunisation history statement obtained from the Australian Immunisation Register. For overseas travellers, it may be recorded in an Australian International COVID-19 Vaccination Certificate or vaccination certificates issued by an overseas government authority, accompanied by the Australian Traveller Declaration or COVID-19 Vaccination and Testing Declaration for travel to Australia.*

## 3. Employers and workers

For the purpose of this Order:

- (1) **employer** in relation to a worker means:
  - (a) the person who employs or engages the worker; or
  - (b) if the worker is self-employed — the worker;
- (2) **worker** means a person identified in Column 1 of Schedule 1, whether paid or unpaid, but does not include:
  - (a) a Commonwealth employee;

- (b) a worker who works in connection with proceedings in a court, where that work cannot be done from the person's ordinary place of residence;
- (c) a person under 12 years and two months of age.

## **Division 2 — Worker-specific definitions**

### **4. Accommodation worker**

For the purposes of this Order, **accommodation worker** means a person who works at or in connection with one of the following accommodation facilities, whether operated on a for-profit or not-for-profit basis:

- (1) camping ground;
- (2) caravan park;
- (3) hotel;
- (4) hostel;
- (5) bed and breakfast;
- (6) private holiday rental facility, including Airbnbs;
- (7) motel;
- (8) serviced apartment.

### **5. Agricultural and forestry worker**

For the purposes of this Order, **agricultural and forestry worker** means a person who works in connection with:

- (1) food safety and verification, inspection or associated laboratory services and biosecurity functions;
- (2) animal saleyards, knackeries and animal transportation services (including livestock and pets);
- (3) services connected with animal health, husbandry or welfare;
- (4) farm, animal and bloodstock leasing activities, including but not limited to:
  - (a) farming activities and other operations relating to agriculture, horticulture, viticulture, irrigation, permaculture, apiculture, grains, fibre production, dairy, flower industry, commercial fishing, aquaculture and livestock;

- (b) intensive agricultural production including greenhouses and animal production;
  - (c) agricultural, veterinary chemicals and vaccine production, transportation and distribution (including the Pig Services Centre);
  - (d) laboratory and diagnostic services;
  - (e) animal feed production, transportation, packaging, sale, and feeding (including livestock and pets);
  - (f) animal pounds and shelters activities;
- (5) forestry activities for the purposes of or relating to:
- (a) production of firewood for heating of premises;
  - (b) production of pallets;
  - (c) production of building supplies for construction;
  - (d) production of other goods (e.g. paper, packaging, caskets and coffins).

## 6. **Airport worker**

For the purposes of this Order:

- (1) **airport** has the same meaning as in the Airports Act 1996 of the Commonwealth;
- (2) **airport worker** means a person who works at or in connection with an airport.

## 7. **Ancillary, support and welfare worker**

For the purposes of this Order, **ancillary, support and welfare worker** means:

- (1) a person who works in connection with:
  - (a) services that are critical to, and relate to, the Victorian Government's COVID-19 response (including hotel quarantine);
  - (b) a public event where that event has received an exemption allowing it to proceed, including any workers and public broadcast personnel that support the safe running of the public event;
  - (c) employment services;
  - (d) union/peak body/employer organisation officials attending a worksite as permitted by law or for Occupational Health and Safety (OHS) advice;

- (2) fly in fly out workers or drive in drive out workers who are required for continuity of an industry or business and maintenance of a competitive operation and where the service is time-critical, or for the critical maintenance or repair of infrastructure critical to a region of, or to, Victoria;
- (3) maritime crew.

## 8. **Authorised officer**

For the purposes of this Order, **authorised officer** has the same meaning as in the **Public Health and Wellbeing Act 2008**.

## 9. **Care worker**

For the purposes of this Order:

- (1) **alcohol and drug residential service** means:
  - (a) a treatment centre within the meaning of the **Severe Substance Dependence Treatment Act 2010**;
  - (b) a residential treatment service (however described) that provides drug or alcohol withdrawal or rehabilitation services in a residential setting to people dependent on alcohol or other drugs;
  - (c) a service that provides supported accommodation to a person after the person has received residential treatment services of the kind referred to in subclause (b);
- (2) **care worker** means a person who works in connection with:
  - (a) an alcohol and drug residential service;
  - (b) a disability residential service;
  - (c) services provided to an NDIS participant in any setting;
  - (d) a homelessness residential service;
  - (e) a secure welfare service;
  - (f) a supported residential service;
  - (g) essential relief activities including the activities provided at Neighbourhood Houses;
  - (h) an eligible SDA enrolled dwelling;
  - (i) a short-term accommodation and assistance dwelling;

- (j) a mental health residential service including the service provided at a Community Care Unit or a Prevention and Recovery Centre;
- (k) a retirement village;
- (3) **disability residential service** means a residential service within the meaning of the **Disability Act 2006** and includes the Intensive Residential Treatment Program of the Statewide Forensic Service, often referred to as 'DFATS';
- (4) **eligible SDA enrolled dwelling** means a Specialist Disability Accommodation (SDA) enrolled dwelling that is provided under an SDA residency agreement within the meaning of section 498B of the **Residential Tenancies Act 1997**;
- (5) **homelessness residential service** means a service that is funded by government to provide a staffed residential service to people who are homeless or at risk of being homeless;
- (6) **mental health residential service** means a service that is funded by the Victorian Government to provide a staffed residential service to people who have a mental illness;
- (7) **retirement village** has the same meaning as in the **Retirement Villages Act 1986**;
- (8) **secure welfare service** has the same meaning as in the **Children, Youth and Families Act 2005**;
- (9) **short-term accommodation and assistance dwelling** has the same meaning as in the **Disability Act 2006**;
- (10) **supported residential service** has the same meaning as in the **Supported Residential Services (Private Proprietors) Act 2010**.

## 10. Community worker

For the purposes of this Order, **community worker** means a person who works at or in connection with a community facility or an organisation providing community services, whether operated on a for profit or not-for-profit basis, including but not limited to:

- (1) a facility at which services are provided by an Aboriginal Community Controlled Organisation;
- (2) a community centre or community hall;
- (3) a public library;
- (4) a youth centre;
- (5) a skatepark in an outdoor space.

## 11. Creative arts worker

For the purposes of this Order, **creative arts worker** means a person who works at or in connection with:

- (1) an art studio;
- (2) a ceramics studio;
- (3) a music room or studio;
- (4) a rehearsal room or studio;
- (5) any other facility that is used for creative art.

## 12. Custodial worker

For the purposes of this Order:

- (1) **custodial worker** means a person who works at or in connection with a:
  - (a) custodial facility that is a facility used for the detention of persons, including but not limited to:
    - (i) a prison;
    - (ii) a remand centre;
    - (iii) a youth residential centre;
    - (iv) a youth justice centre;
    - (v) residential facilities;
    - (vi) residential treatment facilities;
- (2) **prison** has the same meaning as in the **Corrections Act 1986**;
- (3) **remand centre** has the same meaning as in the **Children, Youth and Families Act 2005**;
- (4) **residential facility** has the same meaning as in the **Serious Offenders Act 2018**, and includes the Maribyrnong Community Residential Facility;
- (5) **residential treatment facility** has the same meaning as in the **Serious Offenders Act 2018**;
- (6) **youth residential centre** has the same meaning as in the **Children, Youth and Families Act 2005**;

- (7) **youth justice centre** has the same meaning as in the **Children, Youth and Families Act 2005**.

### **13. Disability worker**

For the purposes of this Order, **disability worker** means a person identified in rows 1 to 36 of Column 1 of Schedule 1, except row 10, who:

- (1) directly provides a **disability service** to a person with a **disability**; or
- (2) supervises or manages another person who directly provides a **disability service** to a person with a disability,

but does not include a person who:

- (3) is a family member of a person with a disability, and provides **disability services** to the person with a disability and does not receive a fee or reward for providing those **disability services**; or
- (4) voluntarily provides **disability services**, unless the person provides the **disability services** on behalf of an organisation or agency.

### **14. Emergency service worker**

For the purposes of this Order, **emergency service worker** means a person who works in connection with emergency services including but not limited to:

- (1) the Victoria State Emergency Services;
- (2) Fire Rescue Victoria, the Country Fire Authority or any other firefighting services;
- (3) the Emergency Services Telecommunications Authority;
- (4) aquatic safety services, including life saving services and marine search and rescue services;
- (5) paramedical services;
- (6) ambulance and paramedics services;
- (7) air ambulance and medical retrieval services (including Royal Flying Doctor Service);
- (8) Victoria Police, protective services and police custody services;
- (9) essential infrastructure and essential services that are required to maintain or protect human health, safety and wellbeing (whether provided by a public or private undertaking), and including maintenance and repair of such infrastructure.

**15. Entertainment and function worker**

For the purposes of this Order, **entertainment and function worker** means a worker who works at an amusement park for the purpose of providing statutorily required training for staff prior to reopening.

**16. Food distribution worker**

For the purposes of this Order, **food distribution worker** means a person who works at or in connection with a premises used for the distribution of food and is a:

- (1) manufacturing worker; or
- (2) port or freight worker; or
- (3) meat and seafood processing worker.

**17. Funeral worker**

For the purposes of this Order, **funeral worker** means a person who works in connection with funerary or mortuary services.

**18. Higher education worker**

For the purposes of this Order, **higher education worker** means a person who works at or in connection with:

- (1) a university;
- (2) a vocational education and training institute;
- (3) a technical and further education institute;
- (4) an adult community and further education institute;
- (5) a registered training organisation;
- (6) any other facility undertaking post-compulsory education or training.

**19. Justice worker**

For the purposes of this Order:

- (1) **honorary justice** has the same meaning as in the **Honorary Justices Act 2014**;
- (2) **justice service centre** means:
  - (a) a premises or place appointed as a community corrections centre pursuant to section 86 of the **Corrections Act 1986** or a youth justice unit pursuant to section 478 of the **Child Youth and Families Act 2005**;or

- (b) the Wulgunggo Ngalu Learning Place;
- (3) **justice worker** means:
  - (a) a person who works at or in connection with a justice service centre; or
  - (b) an honorary justice or a person who works in connection with an honorary justice.

## 20. **Manufacturing worker**

For the purposes of this Order, **manufacturing worker** means a person who works at or in connection with a premises used for the distribution, production or processing of goods, including but not limited to production or processing of:

- (1) food (excluding meat, seafood or poultry);
- (2) beverages including brewed and bottled drinks;
- (3) textiles, leather, clothing, footwear and accessories;
- (4) wood products;
- (5) pulp and paper products;
- (6) printing including small and large production runs;
- (7) chemicals, including fertilisers, pesticides, pharmaceutical, medicinal, cleaning products, toiletries, cosmetics, photographic and explosives;
- (8) metal and plastics;
- (9) machinery and equipment manufacturing including parts;
- (10) furniture;
- (11) household goods;
- (12) whole or partial products;
- (13) software, essential marketing or product installation.

## 21. **Marriage celebrant**

For the purposes of this Order, **marriage celebrant** has the same meaning as authorised celebrant in the **Marriage Act 1961** of the Commonwealth.

**22. Meat and seafood processing worker**

For the purposes of this Order, **meat and seafood processing worker** means a person who works at or in connection with an abattoir or a meat, seafood or poultry processing plant.

**23. Media and film production worker**

For the purposes of this Order, **media and film production worker** means a person who works in connection with:

- (1) journalism;
- (2) media services;
- (3) the production of feature films, theatre, television shows and documentaries (excluding television commercials, student and corporate productions);
- (4) broadcasting performances from an entertainment facility;
- (5) a rehearsal conducted in a theatre that has a seated capacity of more than 1000 people and ordinarily conducts performances on a commercial basis;
- (6) a rehearsal conducted by a National Performing Arts Partnership Company.

**24. Mining worker**

For the purposes of this Order, **mining worker** means a person who works at a premises at which mining activities take place, including coal mining, oil and gas extraction, metal ore mining, non-metallic mineral mining and quarrying petroleum production.

**25. Physical recreation worker**

For the purposes of this Order:

- (1) **physical recreation worker** means a person:
  - (a) who works at or in connection with:
    - (i) a facility used or partly used for sport, sport racing or physical recreation;
    - (ii) a play centre;
    - (iii) a trampolining centre;
    - (iv) a swimming pool, hydrotherapy pool, spa, sauna, steam room or spring facility; or
  - (b) who provides personal training services;

- (2) **hydrotherapy pool** means a pool designed to be used for hydrotherapy or rehabilitation purposes;
- (3) **play centre** means a premises, whether indoor or outdoor, that has play equipment to be used or partly used by children under the age of 12 years but does not mean a playground;
- (4) **spring facility** means a hot, sweet, geothermal or mineral pool, spa or bath fed by groundwater from an aquifer.

**26. Port or freight worker**

For the purposes of this Order, **port or freight worker** means a person works in connection with:

- (1) air transport services;
- (2) port operations;
- (3) freight services (including postal and courier services);
- (4) services provided by a transport, freight or logistics driver;
- (5) monitoring compliance with the **Heavy Vehicle National Law**.

**27. Professional sports, high-performance sports, or racing person**

For the purposes of this Order, **professional sports, high-performance sports, or racing person** means a person who:

- (1) performs a sporting activity in an open-aged national or international competition (at the highest level as identified by the recognised national body);
- (2) is employed to perform a sporting activity as their primary source of income (for example, employed by a professional club or recognised national body);
- (3) is a National Institute Network Scholarship holder or equivalent level national categorised athlete;
- (4) supports the safe conduct of another person's professional sport;
- (5) publicly broadcasts professional sport;
- (6) participates in thoroughbred, harness and greyhound racing.

**28. Professional services worker**

For the purposes of this Order:

- (1) **Australian legal practitioner** has the same meaning as in the **Legal Profession Uniform Law Application Act 2014**;

- (2) **legal worker** means:
- (a) an **Australian legal practitioner** who provides services in connection with the administration of justice where the services cannot be provided by an online communication, teleconference or by means of an audio-visual link facility; or
  - (b) a person who works in connection with a person specified in subparagraph (a).
- (3) **professional services worker** means:
- (a) a person who **provides a financial service** within the meaning of section 766A of the **Corporations Act 2001** of the Commonwealth, or works in connection with the provision of such a service; or
  - (b) a legal worker.

**29. Public sector worker**

For the purposes of this Order:

- (1) **local government worker** means:
- (a) a Chief Executive Officer within the meaning of the **Local Government Act 2020**;
  - (b) a member of Council staff appointed under section 48 of the **Local Government Act 2020**;
- (2) **public sector worker** means:
- (a) a Ministerial officer employed under section 98 of the **Public Administration Act 2004**;
  - (b) a local government worker;
  - (c) a person who is a public sector employee within the meaning of the **Public Administration Act 2004**, except:
    - (i) a person who is a member of the staff of Court Services Victoria within the meaning of the **Court Services Victoria Act 2014**;
    - (ii) a parliamentary officer within the meaning of the **Parliamentary Administration Act 2005**;
    - (iii) a person employed or engaged by the Chief Executive Officer of the Victorian Civil and Administrative Tribunal.

**30. Quarantine accommodation worker**

For the purposes of this Order, **quarantine accommodation worker** means a person who works in connection with quarantine accommodation services that are critical to, and relate to, the Victorian Government's COVID-19 response.

**31. Real estate worker**

For the purposes of this Order:

- (1) **estate agent** has the same meaning as in the **Estate Agents Act 1980**;
- (2) **real estate worker** means an estate agent or any person who works in connection with the provision of services by an estate agent.

**32. Religious worker**

For the purposes of this Order:

- (1) **religious worker** means a person who works at or in connection with a place of worship, but does not include a person who:
  - (a) conducts services of public worship and acknowledgments of faith;
  - (b) performs marriages, funerals and special memorial services according to tradition and ecclesiastical and civil law;
  - (c) visits members of the community in their homes, hospitals and other institutions to provide advice and religious comfort for the purpose of end of life faith reasons;
- (2) **place of worship** has the same meaning as in the **Heritage Act 2017**.

**33. Repair and maintenance worker**

For the purposes of this Order, **repair and maintenance worker** means a person who works in connection with:

- (1) laundry services;
- (2) dry cleaning services;
- (3) car washing services;
- (4) commercial cleaning service;
- (5) locksmith services;
- (6) roadside assistance services;
- (7) pool and spa maintenance services for commercial pools and spas;

- (8) vehicle and mechanical repair services;
- (9) outdoor maintenance, repairs, and cleaning, including at occupied premises;
- (10) outdoor home installations;
- (11) home solar panel installations that involve outdoor work or in roof cavities with external access;
- (12) critical repairs to any premises where required for emergency or safety.

#### **34. Retail worker**

For the purposes of this Order:

- (1) **bottle shop** means an area that is physically attached to a licensed premises where packaged alcohol is sold to be consumed off the premises;
- (2) **club licence** has the same meaning as in the **Liquor Control Reform Act 1998**;
- (3) **food and drink facility** means a café, restaurant, licensed premises, fast-food store, cafeteria, canteen, winery, food truck or food court;

*Note: a food and drink facility includes a food and drink facility at a stadium or arena.*

- (4) **general licence** has the same meaning as in the **Liquor Control Reform Act 1998**;
- (5) **late night licence** has the same meaning as in the **Liquor Control Reform Act 1998**;
- (6) **licensed premises** means a business characterised as a pub, bar, club, nightclub or hotel that supplies alcohol under a general licence, an on-premises licence, a late night licence, a producer's licence, a club licence, a packaged liquor licence, or a restaurant and café licence;
- (7) **market** means a public market, whether indoor or outdoor, including a food market and includes individual stalls at a market;
- (8) **nightclub** means a facility:
  - (a) to which a late night licence applies; and
  - (b) with a dancefloor; and
  - (c) which does not serve food prepared at the facility for consumption on the premises;
- (9) **on-premises licence** has the same meaning as in the **Liquor Control Reform Act 1998**;

- (10) **packaged liquor licence** has the same meaning as in the **Liquor Control Reform Act 1998**;
- (11) **producer's licence** has the same meaning as in the **Liquor Control Reform Act 1998**;
- (12) **restaurant and café licence** has the same meaning as in the **Liquor Control Reform Act 1998**;
- (13) **retail facility** means a premises, or part of a premises, at which a business operates to provide for the sale or hire of goods by retail, or the provision of services by retail, including but not limited to a:
  - (a) market, but only to obtain groceries or fresh food;
  - (b) retail shopping centre;
  - (c) supermarket, grocery store, bakery, butcher, fruit and vegetable store or fishmonger;
  - (d) food and drink facility;
  - (e) post office;
  - (f) news agent;
  - (g) petrol station (including a petrol station that sells groceries);
  - (h) bottle shop;
  - (i) pet store;
  - (j) facility that provides ‘click and collect’ services;
- (14) **retail worker** means a person who works at or in connection with a **retail facility** or a wholesale or distribution facility;
- (15) **retail shopping centre** has the same meaning as in the **Retail Leases Act 2003**.

### **35. Science and technology worker**

For the purposes of this Order, **science and technology worker** means a person who works in connection with scientific and technical research or activities, but only in relation to:

- (1) COVID-19 (e.g. MedTech research regarding vaccines);
- (2) hazard monitoring and resilience;
- (3) biosecurity and public health;

- (4) medical or other research, which is ongoing and requires on site attendance;
- (5) critical scientific experiments, labs and collections.

### **36. Social and community service worker**

For the purposes of this Order, **social and community service worker** means a person who works in connection with:

- (1) **disability services;**
- (2) services provided to an NDIS participant in any setting;
- (3) child protection services;
- (4) family violence and sexual assault support services;
- (5) homelessness support services;
- (6) public housing support services;
- (7) mental health services;
- (8) aged care services;
- (9) any social services provided or contracted by the government to support members of the community who have a particular need because of family violence, homelessness, illness or a chronic health condition, infirmity, disability, contact with the justice system or other essential support service;
- (10) interpreter, cultural or support services.

### **37. Transport worker**

For the purposes of this Order:

- (1) **transport worker** means a person who performs work in connection with:
  - (a) a bus company;
  - (b) a commercial passenger vehicle service;
  - (c) a public transport service;
- (2) **bus company** has the same meaning as in **Transport (Compliance and Miscellaneous) Act 1983**;
- (3) **commercial passenger vehicle service** has the same meaning as in the **Commercial Passenger Vehicle Industry Act 2017**;

- (4) **public transport service** has the same meaning as in the **Transport (Compliance and Miscellaneous) Act 1983**.

**38. Utility and urban worker**

For the purposes of this Order, **utility and urban worker** means a person who works in connection with:

- (1) specialist services at telecommunications stores to support telecommunications as a critical service during the COVID-19 pandemic;
- (2) services to support the ongoing provision and regulation of electricity, gas, water, sewage and waste and recycling services and their maintenance;
- (3) domestic and commercial waste and resource recovery services (including collection, treatment and disposal services and transfer stations), including:
  - (a) electricity services;
  - (b) operation of energy systems;
  - (c) gas services;
  - (d) water supply, sewerage and drainage services;
  - (e) liquid fuels and refinery services;
- (4) the operation of primary clinical waste incinerators by specialised clinical waste workers;
- (5) the operation of carpark for the purposes of supporting workers.

**39. Veterinary and pet/animal care worker**

For the purposes of this Order, **veterinary and pet/animal care worker** means a person who works:

- (1) in connection with:
  - (a) pet grooming services;
  - (b) veterinary services;
  - (c) animal rescue services;
  - (d) animal health, husbandry or welfare services; or
- (2) at the premises of or in connection with:
  - (a) a nature reserve at which animals are treated and cared for;

- (b) a zoo.

### **Division 3 — Other definitions**

For the purposes of this Order:

**Commonwealth employee** has the same meaning as in the Sex Discrimination Act 1984 of the Commonwealth;

**court** means:

- (a) the Supreme Court;
- (b) the County Court;
- (c) the Magistrates' Court;
- (d) the Children's Court;
- (e) any Federal Court;

**COVID-19** means the contagious disease caused by severe acute respiratory syndrome coronavirus 2;

**COVID-19 vaccine** means a one dose COVID-19 vaccine or a two dose COVID-19 vaccine;

**critical unforeseen circumstance** means a circumstance that the employer could not reasonably have foreseen nor planned for which results in a critical need for staff;

**disability** has the same meaning as it has in the **Disability Service Safeguards Act 2018**;

**disability service** has the same meaning as in the **Disability Service Safeguards Act 2018**;

**emergency situation** means a situation where it is reasonably apparent to an employer that medical treatment is necessary, as a matter of urgency to:

- (a) save a person's life; or
- (b) prevent serious damage to a person's health; or
- (c) prevent a person from suffering or continuing to suffer significant pain or distress;

**Individual Healthcare Identifier** has the same meaning as the healthcare identifier of a healthcare recipient in section 9 of the Healthcare Identifiers Act 2010 of the Commonwealth;

**medical contraindication** means one of the following contraindications to the administration of a **COVID-19 vaccine**:

- (a) anaphylaxis after a previous dose;

- (b) anaphylaxis to any component of the vaccine, including polysorbate or polyethylene glycol;
- (c) in relation to AstraZeneca:
  - (i) history of capillary leak syndrome; or
  - (ii) thrombosis with thrombocytopenia occurring after a previous dose;
- (d) in relation to Comirnaty or Spikevax, myocarditis or pericarditis attributed to a previous dose of either Comirnaty or Spikevax;
- (e) where a person is in the process of completing a Federal Department of Health approved COVID-19 vaccine clinical trial;
- (f) the occurrence of any other serious adverse event that has:
  - (i) been attributed to a previous dose of a COVID-19 vaccine by an experienced immunisation provider or medical specialist (and not attributed to any another identifiable cause); and
  - (ii) been reported to State adverse event programs and/or the Therapeutic Goods Administration;

**medical practitioner** means:

- (a) a general practice registrar on an approved 3GA training placement; or
- (b) a public health physician; or
- (c) an infectious disease physician; or
- (d) a clinical immunologist; or
- (e) a general practitioner who is vocationally registered; or
- (f) a general practitioner who is a fellow of the Royal Australian College of General Practitioners (RACGP); or
- (g) a general practitioner who is a fellow of the Australian College of Rural and Remote Medicine (ACRRM); or
- (h) a paediatrician; or
- (i) a medical practitioner who is a fellow of the Royal Australasian College of Physicians;

**NDIS participant** has the same meaning as 'participant' under the **National Disability Insurance Scheme Act 2013** of the Commonwealth;

**one dose COVID-19 vaccine** means 'COVID-19 Vaccine Janssen' (Janssen-Cilag);

**pandemic orders in force** has the same meaning as in the **Pandemic (Movement and Gathering) Order 2022 (No. 3)** as amended or replaced from time to time;

**premises** has the same meaning as in the **Public Health and Wellbeing Act 2008** but does not include a worker's ordinary place of residence;

**Revoked COVID-19 Mandatory Vaccination (Specified Workers) Order** means the **COVID-19 Mandatory Vaccination (Workers) Directions (No 8)** or the **Pandemic COVID-19 Mandatory Vaccination (Specified Workers) Order 2021 (No. 1)**, and their predecessors;

**two dose COVID-19 vaccine** means any of the following:

- (a) Vaxzevria (AstraZeneca);
- (b) Comirnaty (Pfizer);
- (c) Spikevax (Moderna);
- (d) Coronvac (Sinovac);
- (e) Covishield (AstraZeneca/Serum Institute of India);
- (f) Covaxin (Bharat Biotech);
- (g) BBIP-CorV (Sinopharm).



**Martin Foley MP, Minister for Health**

10 January 2022