

# Mandatory Directions

**Many workers in the construction industry believe that when the State of Emergency ends, that they will be able to return to work without the vaccine. Is this true and if not, what happens from the end of the State of Emergency declaration in December or when it is no longer in place?**

The state of emergency declaration made under the Public Health and Wellbeing Act 2008 (Vic) gives the Chief Health Officer power to make directions to eliminate or reduce risk to public health including the recent mandatory vaccination directions that apply to the construction industry.

The current state of emergency declaration is due to end on 16 December 2021. You should not assume that you will be able to return to work unvaccinated after this date. It is possible that new laws will be passed before 16 December 2021 extending current mandatory vaccination directions or imposing new ones.

Even if the state of emergency declaration is no longer in place, your employer may introduce its own policy that requires employees to be vaccinated.

**If my employer is willing, can I return to work after the State of Emergency declaration ends without the vaccine?**

You should not assume that you will be able to return to work after the state of emergency declaration ends. This is because the Victorian Parliament may pass laws extending mandatory vaccination requirements or imposing new requirements. Your employer may also introduce its own policy requiring employees to be vaccinated.

If the state of emergency declaration ends and no new mandatory vaccination requirements are imposed then you should be allowed to return to work unvaccinated if your employer is willing. However, even if your employer is willing, you may not be able to return to work if it is a requirement of your job that you attend worksites where vaccination is a condition of entry.

**Can the workers who travel between the regional and metro bubbles, who are required to complete a PCR test every few days, do their tests within working hours?**

The directions do not provide that the test must be undertaken during working hours. Some employees may be entitled to be paid for the time they spend obtaining a test. If your employer requires you to obtain regular PCR tests you should ask whether you can complete these tests during work hours. If your employer says no, contact your shop steward or the CFMEU legal team.

**If you have had COVID-19 and are not eligible for the job how does impact your employment?**

If a medical practitioner certifies that you are unable to receive the COVID-19 vaccine because you have had COVID-19 then you are an exempted person under the mandatory vaccinations directions and are not considered to be unvaccinated. However, this exemption only applies for the period stated on the certificate which cannot be more than 6 months from the date of the certificate.

**On what grounds can my exemption be rejected by my employer?**

An employer can reject your exemption from the mandatory vaccination directions if your certificate does not establish that you are an "excepted person" under the directions. A person is an "excepted person" if they have a certificate from a medical practitioner that they cannot have a COVID-19 vaccine because of a medical contraindication or because they have an acute medical illness (including that they have recently had COVID-19). The directions set out the types of medical practitioners who can issue exemptions and a definition of medical contraindication.

If you have a medical exemption that your employer is refusing to accept you should speak to your shop steward of the CFMEU legal team.

The above advice is current as at 19 October 2021 and is subject to change. If you have any queries, you should speak with your shop steward or CFMEU legal team.

For further information, contact us today:

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