

## **PUBLIC HEALTH ACT 2016 (WA)**

**Sections 157(1)(e), 157(1)(k), 180 and 190(1)(p)**

### **FIRE AND EMERGENCY SERVICES WORKER (RESTRICTIONS ON ACCESS) DIRECTIONS (No 2)**

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

On 23 March 2020, the Minister for Health declared a public health state of emergency with effect from 1.30 pm on 23 March 2020 in respect of COVID-19 pursuant to section 167 of the *Public Health Act 2016* (WA) (**Act**). On 22 September 2021, the Minister for Health declared a further public health state of emergency with effect from 4.25 pm on 22 September 2021 in respect of COVID-19 pursuant to section 167 of the Act. The public health state of emergency applies to the State of Western Australia.

I, Dr Andrew Robertson, the Chief Health Officer, authorised as an emergency officer under section 4 of the Act to exercise any of the emergency powers while the public health state of emergency declaration in respect of COVID-19 is in force, consider it reasonably necessary to give the following directions to all persons in Western Australia to prevent, control or abate the serious public health risk presented by COVID-19 pursuant to sections 157(1)(e), 157(1)(k), 180 and 190(1)(p) of the Act.

#### **PREAMBLE**

1. The purpose of these directions is to put in place some measures to address the unique risks posed by COVID-19 in the context of fire and emergency services workers given their close interactions with vulnerable groups and the broader community for the purposes of limiting the spread of COVID-19 and to ensure that these workers can continue to provide critical services to the community.

#### **CITATION**

2. These directions may be referred to as the **Fire and Emergency Services Worker (Restrictions on Access) Directions (No 2)**.

#### **COMMENCEMENT**

3. These directions come into effect upon signing.

## REVOCATION

4. The Fire and Emergency Services Worker (Restrictions on Access) Directions are revoked.

## DIRECTIONS

### **Access Restrictions Applying to Department of Fire and Emergency Services and Department of Biodiversity Conservation and Attractions employees**

5. Subject to paragraphs 7 and 8:
  - (a) on and from 12:01am on 1 December 2021, a person who is a **DFES employee** or **DBCA employee** must not enter, or remain at, a **fire and emergency services site** if the DFES employee or DBCA employee has not been **partially vaccinated** against COVID-19; and
  - (b) on and from 12:01am on 1 January 2022, a person who is a DFES employee or DBCA employee must not enter, or remain at, a fire and emergency services site if the DFES employee or DBCA employee has not been **fully vaccinated** against COVID-19.

### **Access Restrictions Applying to fire and emergency services workers**

6. Subject to paragraphs 7 and 8:
  - (a) on and from 12:01am on 1 January 2022, a person who is a **fire and emergency services worker** must not enter, or remain at, a fire and emergency services site if the fire and emergency services worker has not been partially vaccinated against COVID-19; and
  - (b) on and from 12:01am on 1 February 2022, a person who is a fire and emergency services worker must not enter, or remain at, a fire and emergency services site if the fire and emergency services worker has not been fully vaccinated against COVID-19.

### **General Vaccination Requirements**

7. Where only part of **premises** are being used as a fire and emergency services site, nothing in these directions prevents a DFES employee, DBCA employee or a fire and emergency services worker who does not meet the requirements of paragraphs 5 and 6 from entering that part of the premises which is not being used as a fire and emergency services site.

8. Nothing in these directions prevents a person who is not vaccinated against COVID-19 from entering any part of a fire and emergency services site for the purposes of:
- (a) performing a statutory duty arising under a law of the Commonwealth that cannot reasonably be performed other than by entering the fire and emergency services site; or
  - (b) performing any function or duty or exercising any right or power under a Fair Work entry permit issued by the Fair Work Commission under the *Fair Work Act 2009* (Cth) or a Work Health and Safety entry permit issued by the Fair Work Commission under the *Work Health and Safety Act 2011* (Cth) or a right of entry permit issued by the Registrar of the Department of the Registrar Western Australian Industrial Relations Commission under the *Industrial Relations Act 1979* (WA);
  - (c) responding to an emergency where the emergency response is required to be provided immediately and a fully vaccinated or partially vaccinated person is not available to provide the response; and
- to the extent that a DFES employee, DBCA employee or fire and emergency services worker enters a fire and emergency services site for any of the purposes in paragraph (a) to (c) then the DFES employee, DBCA employee or a fire and emergency services worker is an exempt person at any time and for so long as they enter or remain at a fire and emergency services site for that purpose.
9. A DFES employee, DBCA employee or a fire and emergency services worker must provide evidence in the form approved by the **Chief Health Officer** of their **vaccination status** for inspection, recording and retention of a copy, if:
- (a) **directed** to do so by an **emergency officer** or a **nominated officer**;
  - (b) required to do so by their employer or the person in charge of the DBCA employee or fire and emergency services worker or the Department of Fire and Emergency Services.
10. The Department of Fire and Emergency Services or Department of Biodiversity, Conservation and Attractions must:
- (a) take all reasonable and lawful steps to:
    - i. collect and maintain a record of the vaccination status of each DFES employee or DBCA employee;

- ii. if it is the Department of Fire and Emergency Services, collect and maintain a record of each fire and emergency services worker who has entered a fire and emergency services site under the control of the Department of Fire and Emergency Services; and
      - iii. only roster on, or otherwise permit to work at a fire and emergency services site a DFES employee, DBCA employee or fire and emergency services worker who is vaccinated or is an exempt person in accordance with these directions;
    - (b) on request, provide any record of the kind referred to in paragraph 10(a)(i) that it has collected and maintained to an emergency officer or nominated officer as soon as practicable after the request is made; and
    - (c) not use or disclose any record of the kind referred to in paragraph 10(a)i. except:
      - i. as provided for in this paragraph 10; or
      - ii. as permitted or required by law, including any law of the Commonwealth; or
      - iii. for the purpose of ascertaining compliance with any employer, Department of Biodiversity, Conservation and Attractions or Department of Fire and Emergency Services' direction restricting entry to a fire and emergency services site; or
      - iv. to the extent that the person expressly provided the person's vaccination status for a purpose other these directions,

and

  - (d) take reasonable steps to protect any record it holds of the kind referred to in paragraph 10(a)i. from:
    - i. misuse and loss; and
    - ii. unauthorised access, modification or disclosure.
11. The employer or person in charge of a fire and emergency services worker must:
- (a) take all reasonable and lawful steps to:
    - i. collect and maintain a record of the vaccination status of each fire and emergency services worker; and

- ii. only roster on, or otherwise permit to work at a fire and emergency services site a fire and emergency services worker who is vaccinated or is an exempt person in accordance with these directions;
- (b) on request, provide any record of the kind referred to in paragraph 11(a)i. that it has collected and maintained to an emergency officer or nominated officer as soon as practicable after the request is made; and
- (c) not use or disclose any record of the kind referred to in paragraph 11(a)i. except:
  - i. as provided for in this paragraph 11; or
  - ii. as permitted or required by law, including any law of the Commonwealth; or
  - iii. for the purpose of ascertaining compliance with any employer direction restricting entry to a fire and emergency services site; or
  - iv. to the extent that the person expressly provided the person's vaccination status for a purpose other these directions,

and

- (d) take reasonable steps to protect any record it holds of the kind referred to in paragraph 11(a)i. from:
    - i. misuse and loss; and
    - ii. unauthorised access, modification or disclosure.
12. A person who is required to provide evidence of their vaccination status under paragraph 9 or a record of the kind referred to in paragraphs 10(a)i or 11(a)i. under paragraphs 10(b) or 11(b) respectively must only provide a record that is true and accurate.

## **DEFINITIONS**

For the purposes of these directions:

- 13. **Ad hoc basis** means no more than once per week.
- 14. **Ad hoc volunteer** means a person who provides welfare services in a volunteer or unpaid capacity and does so on an **ad hoc basis** only.
- 15. **Assistance operation** has the same meaning that it has in the *Fire and Emergency Services Act 1998* (WA).


16. **Bush fire brigade** has the same meaning that it has in the *Bush Fires Act 1954* (WA).
17. **Chief Health Officer** has the same meaning that it has in the Act.
18. **DBCA employee** means a person employed in the Department of Biodiversity, Conservation and Attractions:
  - (a) to perform fire prevention, control and extinguishment activities; or
  - (b) in the Regional and Fire Management Services Division,other than an exempt person as set out in paragraphs 24(a), (b) and (d).
19. **DBCA Premise** means any premise owned, leased or operated by the Department of Biodiversity, Conservation and Attractions and used for the purposes of fire prevention, control and extinguishment, including an incident control centre, a vehicle, a vessel or an aircraft.
20. **DFES Premise** means any premise owned, leased or operated by the Department of Fire and Emergency Services including an incident control centre, a vehicles, a vessel or an aircraft.
21. **DFES employee** means a:
  - (a) a person employed in the Department of Fire and Emergency Services; or
  - (b) a person who is a student or on work experience or an internship and is on a placement at a DFES premise as a formal part of their education,other than an exempt person as set out in paragraphs 24(a), (b) and (d).
22. **Direction** includes any direction under the Act, whether the direction is given orally or in writing, and **directed** includes directed by way of a direction under the Act, whether the direction is given orally or in writing.
23. **Emergency officer** has the same meaning that it has in the Act.
24. **Exempt person** means, to the extent that any such person is a DFES employee or fire and emergency services worker:
  - (a) a person who has:
    - i. a **medical exemption** of which the person provides proof on request by a person referred to in paragraph 9; or
    - ii. a **temporary exemption** of which the person provides proof on request by a person referred to in paragraph 9; or
  - (b) a person who is by operation of paragraph 8 of these directions an exempt person; or

- (c) a person of the kind set out in Column 2 of the table in Schedule 1;
  - (d) any other person or class of persons who the Chief Health Officer, or a person authorised by the Chief Health Officer for the purposes of this paragraph, declares in writing to be an exempt person upon receipt of a request for exemption in the form specified by the Chief Health Officer and subject to any terms and conditions specified.
25. **FES activity** means any FES activities as defined in the *Fire and Emergency Services Act 1998* (WA).
26. **Fire or emergency services incident area** means any premise where a **FES activity** or an **assistance operation** is being performed.
27. **Fire and emergency services site** means a:
- (a) **Fire or emergency services incident area**;
  - (b) **DFES Premise**;
  - (c) **Volunteer Brigade, Group or Unit premise**;
  - (d) **Local government premise**;
  - (e) **DFES premise**.
28. **Fire and emergency services worker** means a person of the kind set out in Column 1 of the table in Schedule 1 other than an exempt person (even if the exempt person falls within Column 1 of the table in Schedule 1) or a person who is a DFES employee or a DBCA employee.
29. **Fully vaccinated** means that the person has been administered with two doses of a COVID-19 vaccine registered by the Therapeutic Goods Administration.
30. **Local government premise** means any premise owned, leased or operated by a local government and used for the purposes of fire prevention, control and extinguishment, including a vehicle or a vessel.
31. **Medical exemption** means a medical exemption recorded on the Australian Immunisation Register and displayed on the individual's Immunisation History Statement.
32. **Nominated officer** means an employee of the Department of Fire and Emergency Services authorised by the Chief Health Officer orally or in writing to perform a function for the purposes of these directions.
33. **Partially vaccinated** means that the person has been administered with one dose of a COVID-19 vaccine registered by the Therapeutic Goods Administration.
34. **Premises** has the same meaning it has in the Act.

35. **SES Unit** has the same meaning that it has in the *Fire and Emergency Services Act 1998* (WA).
36. **Temporary exemption** means an exemption approved by the Chief Health Officer or a person authorised by the Chief Health Officer for that purpose whether in relation to an individual or a class of persons and subject to any terms and conditions specified in that approval.
37. **Vaccination status** means whether a DFES employee or fire and emergency services worker has been vaccinated or whether they are an exempt person.
38. **VMRS Group** has the same meaning that it has in the *Fire and Emergency Services Act 1998* (WA).
39. **Volunteer Brigade, Group or Unit premise** means any premise operated or used by a Department of Fire and Emergency Services Volunteer Fire and Emergency Service, Volunteer Fire and Rescue Service, State Emergency Service, Marine Rescue Service or a bush fire brigade, including a vehicle or a vessel.

#### **PENALTIES**

It is an offence for a person to fail, without reasonable excuse, to comply with any of these directions, punishable by a fine of up to \$20,000 for individuals and \$100,000 for bodies corporate.



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**Dr Andrew Robertson**

Emergency Officer

*16* November 2021 *17:20* hours



## SCHEDULE 1

Row	Column 1	Column 2
1	<p><b>Fire and emergency services worker</b></p> <p>A person who is a member of or a cadet in a <b>Bush Fire Brigade</b>.</p> <p>A person who is a member of or a cadet in an <b>SES Unit</b></p> <p>A person who is a member of or a cadet in a <b>VMRS Group</b>.</p> <p>A person who is a Department of Fire and Emergency Services volunteer or cadet, including a person who is a volunteer or cadet in the:</p> <ul style="list-style-type: none"> <li>(a) State Emergency Services;</li> <li>(b) Volunteer Marine Rescue;</li> <li>(c) Volunteer Fire and Rescue; or</li> <li>(d) Volunteer Fire and Emergency Services.</li> </ul>	<p><b>Exempt persons</b></p>
2	<p>A person who is employed or otherwise engaged, including in a voluntary or unpaid capacity, by a local government to perform fire prevention, control and extinguishment activities.</p>	
3	<p>A person who is employed or engaged by the Australian Defence Force</p>	
4	<p>A person who provides an <b>assistance operation</b>.</p>	

	<p>A person who provides goods or services at a fire and emergency services site and is employed or otherwise engaged, including in a voluntary or unpaid capacity, to work at a fire and emergency services site by the Department of Fire and Emergency Services or a third party on behalf of the Department of Fire and Emergency Services, other than a person covered by Column 2 of Schedule 1 including, for the avoidance of doubt:</p> <ul style="list-style-type: none"> <li>(e) a person engaged by a labour hire firm that provides staff to supplement the permanent workforce and contractors</li> <li>(f) an administrative staff member including a person working in administration, policy, management or reception services;</li> <li>(g) a person on placement from another government agency including a Commonwealth agency;</li> <li>(h) an ancillary staff member including a cleaner, a person performing food preparation services and a person providing maintenance services.</li> </ul>	
5	<p>A person who is a volunteer, other than an <b>ad hoc volunteer</b>, who provides welfare services a fire or emergency services incident site, such as meals and refreshments, care packs, bedding, counselling and financial assistance.</p>	<p>A person who is an <b>ad hoc volunteer</b> who provides welfare services at a fire or emergency services incident site, such as meals and refreshments, care packs, bedding, counselling and financial assistance.</p>

*Note: This includes volunteers from organisations such as Salvation Army, Country Women's Association and any other not for profit organisations or community groups that provide welfare services in response to a fire or emergency incident.*

emailed to US 10/11.