

Can an employer mandate COVID-19 vaccinations?

The *Fair Work Ombudsman* (FWO) has provided a list of public health orders requiring vaccination in various Australian states and territories. The FWO has expressed an opinion that national system employers covered by the *Fair Work Act 2009* (cth) (and Western Australia employers covered by the state system) may now explore issuing reasonable and lawful directions to employees to receive COVID-19 vaccinations that will be fact dependent and needs to be assessed on a case-by-case basis. The website then outlines a range of factors that may be relevant when determining whether a lawful direction to an employee is reasonable.

Jobs Australia recommends that the status quo should be maintained until certainty is provided by state and territory governments. This would require state and territory governments to issue public health orders for their respective state and territory jurisdictions for all employees to be vaccinated.

The Australian courts will need to test any reasonable and lawful direction issued to an employee, including being issued based on satisfying a health and safety obligation before certainty can be established about that application.

The table below outlines the employment classifications impacted by public health orders issued by state and territory governments about COVID-19 vaccinations as of 13 August 2021.

State	Type of employment
NSW	Quarantine workers
	Transport workers
	Airport workers
Queensland	Health service employees
	Queensland ambulance service employees
	Queensland Health employees in residential aged care facilities operated by Queensland Health (first dose by 16 September 2021)
	Workers in quarantine facilities
South Australia	Certain workers within the South Australia quarantine system, including airports, medi-hotels, health-care settings and during transportations (from 4 August 2021)
Western Australia	Quarantine centre workers



	Cleaners
	Hotel staff
	Medical and health staff
	ADF personnel and WA police
	Security personnel

The Fair Work Ombudsman website: [Click here](#).
(Accessed 13 August 2021)

Jobs Australia will continue to monitor this ongoing situation and provide updates to Members with any changes or new developments that emerge.

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