

PUBLIC HEALTH ACT 2016 (WA)

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

WA CORRECTIONAL FACILITY ENTRANT (RESTRICTIONS ON ACCESS) DIRECTIONS

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 4.25pm 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 correctional facilities in order to limit the spread of COVID-19 to vulnerable populations in correctional facilities in Western Australia.

CITATION

2. These directions may be referred to as the **Correctional Facility Entrant (Restrictions on Access) Directions**.

COMMENCEMENT

3. These directions come into effect upon signing.

DIRECTIONS

4. If a **correctional facility entrant** is also required to comply with the Primary Health Care Worker (Restrictions on Access) Direction, those directions prevail to the extent of any consistency.

Access Restrictions Applying to Correctional Facility Entrants

5. Subject to paragraphs 6 and 7:

- (a) on and from 12:01 am on 1 December 2021, a person who is a correctional facility entrant must not enter or remain at a **correctional facility** if the person has not been **partially vaccinated** against COVID-19; and
- (b) on and from 12:01 am on 1 January 2022, a person who is a correctional facility entrant must not enter or remain at a correctional facility if the person has not been **fully vaccinated** against COVID-19.

General Vaccination Requirements

6. Nothing in these directions prevents a person who is not vaccinated against COVID-19 from entering any part of a correctional facility for the purposes of:
- (a) performing a law enforcement function that cannot reasonably be performed other than by entering the correctional facility; or
 - (b) performing a statutory duty arising under a written law of the Commonwealth that cannot reasonably be performed other than by entering the correctional facility; or
 - (c) 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); or
 - (d) 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 correctional facility entrant enters a correctional facility for any of the purposes in paragraph (a) to (d), then the correctional facility entrant is deemed to be an **exempt person** at any time and for so long as they enter or remain at a correctional facility for that purpose.

7. A correctional facility entrant 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
 - (b) required to do so by the owner, occupier or person apparently in charge of the correctional facility.

8. The owner, occupier or person apparently in charge of the correctional facility must:
- (a) take all reasonable and lawful steps to:
 - i. collect and maintain a record of the vaccination status of each correctional facility entrant to the correctional facility; and
 - ii. only roster on, or otherwise permit to work in a correctional facility, a correctional facility entrant who is vaccinated or who is an exempt person in accordance with these directions;
 - (b) on request, provide any record of the kind referred to in paragraph 8(a)i that the owner, occupier or person apparently in charge of a correctional facility has collected and maintained to an emergency 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 8(a)i except:
 - i. as provided for in this paragraph 8; or
 - ii. as permitted or required by law, including any law of the Commonwealth; or
 - iii. for the purposes of ascertaining compliance with any employer direction restricting entry to a correctional facility; or
 - iv. to the extent that the person expressly provided the person's vaccination status for a purpose other than for the purposes of these directions; and
 - (d) take reasonable steps to protect any record it holds of the kind referred to in paragraph 8(a)i from:
 - i. misuse and loss; and
 - ii. unauthorised access, modification or disclosure.
9. A person who is required to provide evidence of their vaccination status under paragraph 8 or a record of the kind referred to in paragraph 8(a)i under paragraph 8(b) must only provide that evidence or a record that is true and accurate.

INTERPRETATION

10. Unless specified otherwise, any reference in these directions to any other **direction** made by the Chief Health Officer is deemed to be a reference to that direction as amended or replaced from time to time.

DEFINITIONS

For the purposes of these directions:

11. **Chief Health Officer** has the same meaning that it has in the Act.
12. **Correctional facility** means:
 - (a) a premise named in Schedule 1; and
 - (b) a vehicle used in the transportation of a **prisoner** or a **detainee** to or from a premise named in Schedule 1, but only at times when a prisoner or detainee is in the vehicle.
13. **Correctional facility entrant** means a person who enters a correctional facility in any capacity other than an exempt person.
14. **Detainee** has the same meaning as in the *Young Offenders Act 1994 (WA)*;
15. **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.
16. **Emergency officer** has the same meaning that it has in the Act.
17. **Exempt person** means, to the extent that any such person is a correctional facility entrant:
 - (a) a person who has:
 - i. a **medical exemption** of which the person provides proof on request by a person referred to in paragraph 7; or
 - ii. a **temporary exemption** of which the person provides proof on request by a person referred to in paragraph 7;
 - or
 - (b) a person who is by operation of paragraph 6 of these directions an exempt person; or
 - (c) a person who is a detainee; or
 - (d) a person who is a prisoner; or
 - (e) a person who is under the age of 12 years; or
 - (f) 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.
18. **Fully vaccinated** means that the person has been administered with two doses of a COVID-19 vaccine registered by the Therapeutic Goods Administration.
19. **Medical exemption** means a medical exemption recorded on the Australian Immunisation Register and displayed on the individual's Immunisation History Statement.

20. **Partially vaccinated** means that the person has been administered with one dose of a COVID-19 vaccine registered by the Therapeutic Goods Administration.
21. **Premises** has the same meaning that it has in the Act.
22. **Prisoner** has the same meaning as in the *Prisons Act 1981* (WA).
23. **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.
24. **Vaccination status** means whether a correctional facility entrant has been partially or fully vaccinated or whether they are an exempt person.

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

12 November 2021 17:24 hours

SCHEDULE 1

Correctional Facilities

Premise	Name
Detention Centre	Banksia Hill Detention Centre
Prisons	Acacia Prison Albany Regional Prison Bandyup Women's Prison Boronia Pre-release Centre for Women (including the Corrective Services Academy) Broome Regional Prison Bunbury Regional Prison Casuarina Prison Eastern Goldfields Regional Prison Greenough Regional Prison Hakea Prison Melaleuca Women's Prison Roebourne Regional Prison Wandoo Rehabilitation Prison West Kimberley Regional Prison Karnet Prison Farm Pardelup Prison Farm Wooroloo Prison Farm
Work Camps	Warburton Work Camp Wyndham Work Camp Walpole Work Camp Roebourne Work Camp Dowerin Work Camp