

COVID-19 vaccines and work

Do I need a COVID19 vaccine to keep my job?

You may have been told by your employer that you need to have a COVID19 vaccine in order to keep your job. Your employer can only do this if:

- x There is a specific law that says you need to be vaccinated. This includes NSW public health orders; or
- x There is a vaccination requirement in your employment contract, award, enterprise agreement or other registered agreement; or
- x Your

The Fair Work Ombudsman has published a list of orders for COVID-19 vaccinations across Australian states and territories. You can check this list to see if there is a public health order that applies to your work.



What if I have a medical reason not to get vaccinated?

If you have a medical reason not to be vaccinated you should speak to your doctor. To be exempt from most vaccination requirements in public health orders you will need medical evidence in the form of an approved certificate from a medical practitioner, available on the NSW Health website.

What about discrimination law?

Discrimination law may be relevant because:

- x A clause in your employment contract which requires vaccination might be unenforceable because the clause does not comply with discrimination law; or
- x A direction from your employer to get vaccinated is unlawful because the direction breaches discrimination law.

Generally, discrimination law will not protect you if you choose not to be vaccinated due to a personal preference. Discrimination will be against the law only when a person is treated differently based on certain characteristics, such as a disability, sex, age, or race.

If you cannot be vaccinated because of a disability, you may be able to argue that a vaccination requirement by your employer indirectly discriminates against you because of your disability. You will need medical evidence that shows that you cannot comply with a requirement to get the currently available COVID-19 vaccines because of that specific disability. However, even under discrimination law your employer may still be able to argue that they can lawfully require vaccination if it is reasonable in the circumstances. This will depend on your workplace, your role, your contact with other people including members of the public, workplace safety requirements and whether any adjustments can be made for you so that you can remain in your work in a safe way. If the vaccination requirement is reasonable, in some cases there may be a possibility of