



Hutchinson
Legal

Workplace
vaccinations

Unclaimed
Money

Working from
Home

SPRING 2021

Insight

Navigating uncharted waters

Many of us may have been tempted to think that after the first huge wave of COVID-19 hit in 2020 that we would be looking back on the crisis as being behind us. It is now very clear that COVID and its effects will be with us for a long time.

This edition of Legal Insight looks at navigating the waters ahead, whilst holding onto the sentiment that any crisis or suffering brings with it the opportunity for growth and learning, and most importantly, for reviewing

and changing the direction in which we are heading. It is to be hoped that for whatever reason COVID is with us, we will learn the lessons that it offers us to learn.

Can an employer require an employee to have a COVID-19 Vaccination?

“Life is like a journey into uncharted waters for us all. If you become preoccupied with avoiding potential pain, you will miss the glory of the sunsets on the ocean of your life.”

TEAL SWAN

FAST FACTS

127 kg

The approximate weight of a spacesuit, which takes 45 minutes to put on

35,853'

The deepest dive (in feet) in history, made by Victor Vescovo in 2019

2,375 km

The length of the longest river in Australia, the Murray River

The national roll out of COVID-19 vaccines has raised the question of whether an employer can force employees to be vaccinated.

Employers should not assume they can mandatorily require their employees to be vaccinated for COVID-19. If an employer makes being vaccinated a condition of starting or continuing employment, the employer must be able to demonstrate that this is a reasonable and lawful direction.

What is reasonable and lawful?

To be lawful, the direction must comply with any terms set out in a contract, award, agreement or any State, Territory or Commonwealth laws.

On 28 June 2021 the National Cabinet agreed to mandate that by mid-September 2021 working in an aged care facility was conditional upon having received a first dose of COVID-19 vaccine.

New South Wales and Western Australia have also mandated that airport and quarantine workers must have received at least a first dose of the COVID-19 vaccine to work at airports or in a quarantine vaccination program. In Western Australia, quarantine centre workers include security guards, medical staff, hotel staff and even police officers.

If there are no such terms in a Contract, Award, Agreement, or Law that specifically require a COVID-19 vaccination, then whether the direction is lawful and reasonable depends on the circumstances of each case.

Employees must comply with lawful and reasonable directions, or face disciplinary action which could lead to a dismissal or termination of employment.

Read more at www.hutchinsonlegal.com.au/resources/employee-mandated-vaccination. If you need any assistance regarding the legal effects of COVID on your life or your business, please call us on 9870 9870

Meet Annabel & Phillip



Annabel joined us in 2020 and works in our Wills & Estates and Family Law departments.



Phillip also joined us in 2020 and is a Senior Lawyer in our Litigation Team.

Unclaimed Money

Have you checked your name recently on the unclaimed money search website? Any unclaimed money received by ASIC for bank accounts, shares, investments and life insurance policies is transferred to the Commonwealth of Australia Consolidated Revenue Fund.

There is no time limit on making a claim, so check your name today at moneysmart.gov.au/find-unclaimed-money

A Reminder

Our new website enables you to book directly with many of our lawyers for an online or in-person meeting.



Client FUNction

We are looking forward to moving forward with our 2021 Client FUNction this November. Due to potential lockdowns and restrictions, this may be an online event. Further details TBC.



Working from Home – What are the implications?

For many people, the past 18 months has seen a significant change in their mode of work, with 'working from home' either part-time or full-time becoming at times necessary, and at other times desirable.

Whilst there are some obvious drawbacks to this arrangement, there are also many benefits, and as such, working from home is likely to become a permanent part of the employment landscape for many people.

What many employers fail to recognize, however, is that their common law and Work Health and Safety (WHS) obligations toward home-based employees and contractors are in effect the same as if the individual was working at their usual place of business.

These obligations are set out in both the *Victorian Occupational Health and Safety Act 2004* and the *Federal Work Health and Safety Act 2011* with similar legislative provisions for other States and Territories.

WHS obligations can be summarised into three main categories:

1. General safety and work environment;
2. First aid and emergency requirements; and
3. Employee wellbeing.

Each of these categories has a number of specific requirements, and in principle, it is the obligation of the employer to take all reasonable steps to ensure minimum standards are met and maintained. There are also obligations upon employees to also take reasonable steps to avoid or minimise WHS risks in their home workplace.

Failure to take "all reasonable steps" could place an employer at risk, not only from the loss of productivity of an employee who suffers a workplace injury while working from home, but also to penalties for a breach of the legislation and reputational and financial risk as a result of litigation by an employee.



Read more at www.hutchinsonlegal.com.au/resources/working-from-home-implications. If you require any further information regarding the issues raised in this article, please telephone us on 9870 9870.

PER GRANT HUTCHINSON, CON NOTTAS, JASON LAU, SHANI COMBÉN, MADELAINE PELSER & ANDREW WHEELER



Hutchinson Legal

hutchinsonlegal.com.au

Liability limited by a scheme approved under Professional Standards Legislation.

PHONE

(61 3) 9870 9870

EMAIL

office@hutchinsonlegal.com.au



ALL CORRESPONDENCE TO

PO Box 450 Ringwood VIC 3134

Clients should not act solely on the basis of material contained in this newsletter because the contents are of a general nature only and may be liable to misinterpretation in particular circumstances. Changes to legislation can occur quickly. Do not act on any of the contents of this newsletter without first obtaining specific advice from a lawyer.