



Hutchinson  
Legal

Workplace  
vaccinations

Estate  
Planning

Pets in  
Rentals

SUMMER 2021

# Insight

## The Road less Travelled

As we continue to walk the unknown path that COVID has presented, it is also a time to reflect on the journey of the three wise men who followed the star to celebrate a new beginning.

We have the opportunity to consider the unexpected gifts which COVID has brought us, such as the joys of freedom, the rewards for sacrifices, and the value of community.

We have also been given the possibility to create a better path for the future.

From all of us at Hutchinson Legal, we hope you have a peaceful Christmas and a hope-filled New Year.

## No jab-no job – Is it legal?

We have become accustomed to displaying vaccination records on our mobile phones to gain access to certain leisure activities (for example, entering a restaurant).

What about the workplace? When can an employer require only those workers who have been fully vaccinated against Covid-19 to enter the workplace?

For all **general workers**, the situation is that if it is reasonably practical for a worker to work at home, the employer must not permit that person to work at the workplace, or anywhere outside the worker's home, unless:

- a) the worker is fully vaccinated, or
- b) the worker is exempt on medical grounds<sup>1</sup>.

**Authorised workers** (e.g., in retail, the funeral industry or manufacturing) are required by enforceable directions issued by the Chief Health Officer to show evidence of vaccination to their employer to continue working at the workplace<sup>2</sup>. Most workers were

required to be fully vaccinated by 26 November 2021.

**Specified workplaces** such as residential aged care facilities, construction sites, healthcare, schools, and other education facilities require workers to be fully vaccinated. Employers and operators in these industries must take all reasonable steps to ensure that an unvaccinated worker does not enter, or remain upon, the premises. Different timelines apply. In residential aged care the full dose deadline was 15 November 2021; however, for healthcare facilities, the deadline is 15 December 2021<sup>3</sup>.

An **exempted worker** must obtain a medical certificate or letter from an authorised medical practitioner that the worker is unable to receive a COVID-19 vaccine due to:

- a) A medical *contraindication* to Covid-19 vaccines; or
- b) An acute medical illness (including Covid-19 diagnosis).

To read the full article, please go to: <https://www.hutchinsonlegal.com.au/resources/vaccination-status-and-the-workplace/>

**For further information about vaccination status and the workplace, please contact our Employment Law team on 9870 9870.**

"I hope you remember that if you encounter an obstacle on the road, don't think of it as an obstacle at all... think of it as a challenge to find a new path on the road less travelled."

**HYEONSEO LEE - A NORTH KOREAN DEFECTOR'S STORY**

### FAST FACTS

## 134 m

The height (above water) of the Sydney Harbour Bridge, the World's highest steel arch bridge.

## 5,530 km

The length of 'Dingo Fence', the longest fence in the World.

## 262

The number of days Victorian spent in lockdowns since March 2020.

- 1 COVID-19 Mandatory Vaccination (General Workers) Directions, as amended from time to time.
- 2 COVID-19 Mandatory Vaccination (Workers) Directions, as amended from time to time.
- 3 COVID-19 Mandatory Vaccination (Specified Facilities) Directions, as amended from time to time.

# What to put in your 'When I am Dead' Folder

Whilst, thinking of your own death can be unsettling, preparing well for when the time comes is a loving thing to do for your family and friends. It is also essential to ensure that the assets you have worked hard to accumulate throughout your lifetime are brought to the attention of your Executor and/or your Family, so they can be distributed to your nominated beneficiaries.

Our experience has shown that putting together a "When I'm Dead" Folder is a valuable exercise. The aim is for your Executor and/or Family to know precisely what assets you have, where they are kept and how to access them. This prevents future headaches or delays, saving your Executor time, money and stress.

If you would like some tips about what to include in your folder, please go to the following link: <https://www.hutchinsonlegal.com.au/resources/what-to-put-in-your-when-i-am-dead-folder/>

**Our Wills and Estates Team also have 'Personal Information Booklets' in which this information can be recorded. Please let our team know if you would like to collect one of these booklets.**



## Pets in rental properties

In 2020, the Residential Tenancies Act 1997 was amended to include a new process for tenants to request consent from their landlord to keep a pet on the property.

Tenants must make the request using the approved form (which can be found on Consumer Affairs' website). The landlord has 14 days to make a decision and if they refuse to allow the request, the landlord must apply to the Victorian Civil and Administrative Tribunal ('VCAT') within 14 days for an Order that the request be refused.

In deciding whether to make an order to refuse permission for a pet, VCAT can order that the landlord's decision to refuse to allow a pet on the property was reasonable, or that the tenant can keep the pet. In making a decision, VCAT can consider the type of pet and the type of property, the appliances, fixtures and fittings in the property, any relevant laws (such as Council laws prohibiting keeping of animals) and anything else it considers relevant.

There are two reported cases from VCAT relating to the new provisions. In both cases, the tenant was allowed to keep the pet on the premises.

In *Jaggers v Webster & Others (Residential Tenancies)* [2020] VCAT 556 VCAT ordered the tenants could keep a dog on the premises even though the height of the enclosure around the rooftop terrace was not compliant with the Code of

Practice for the Private Keeping of Dogs published by Agriculture Victoria under the Prevention of Cruelty to Animals Act 1986.

In *Teschner v Vearing (Residential Tenancies)* [2020] VCAT 484, the landlord's concerns that his landlord insurance did not cover pets unless he paid an additional premium, was found by VCAT to be an irrelevant consideration.

Landlords are prohibited from accepting a pet bond. Any damage the pet may cause to the property is to be treated in the same way as any other damage. During the tenancy, the landlord can serve a breach of duty notice on the tenant for any damage caused by a pet, or they can claim on the bond or sue the tenant after the end of the tenancy for the cost of the repair of any damage.

Some Owners Corporation rules may prohibit the owning of pets. However, these types of rules have been found to be invalid, as an Owners Corporation does not have power to make rules in relation to what happens in the individual lots. An Owners Corporation is allowed to make rules regarding the behaviour of pets on common property. If any pet is dangerous or is causing a nuisance, the tenant may have to remove the pet.

**If you require any further information or assistance regarding pet ownership in a rented property please contact our Property Law Department on 9870 9870.**

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