



Call for uniform mandate for jobs

EXCLUSIVE

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Employers are urging a nationally-co-ordinated uniform approach to rolling out the COVID-19 vaccine across the workforce, declaring most companies will only be prepared to encourage workers to take the job as they fear legal action if they make vaccination a mandatory work requirement.

Business groups said employers faced a legal minefield when the vaccine was rolled out.

"Navigating through the IR, WHS, anti-discrimination and workers' compensation issues will be very difficult for employers, particularly those that decide to make COVID-19 vaccinations mandatory in their workplaces," Australian Industry Group chief executive Innes Willox said.

"Given all of the legal issues, most employers are likely to take the view that they will not go beyond encouraging employees to be vaccinated unless a public health order is issued making vaccines compulsory in a particular sector."

Industrial Relations Minister Christian Porter has said due to the states and territories having the largest area of legal responsibility for workplace safety, "it is expected state health orders will be the primary tool to drive vaccination rates, just as they did last year to require influenza vaccinations in aged care facilities".

Australian Mines and Metals Association chief executive

Steve Knott said fly-in-fly-out industries would be "particularly disrupted if we see the states and territories go it alone, as they have done with border closures and quarantine matters".

"A nationally-co-ordinated, uniform approach to vaccination requirements is of paramount importance," Mr Knott said.

"Resources employers are pushing for as much certainty from governments as possible. For example, it would be immensely helpful if states and territories mandated that employees working on critical resources infrastructure, or in certain types of close-proximity work, had to be vaccinated.

"It should not be left to employers alone to confront the legal and ethical issues arising from requiring persons to be vaccinated. We're all in this together — government, business, the workforce and the broader community — but ambiguity does not work in our sector."

University of Adelaide law professor Andrew Stewart said there was no legal impediment to the Commonwealth legislating to require vaccination either in all workplaces, or at least the great majority.

"It's preferable there be a national policy with guidance about exceptions because there will be arguments," he said.

Mr Porter said he expected most Australians would take up the opportunity to be vaccinated against COVID for their own safety.

Michael Byrnes, partner at law firm Swaab, said an employer mandating an employee be vaccinated for COVID-19 would need to justify the direction, and

show the vaccination is necessary for the employee to perform the inherent duties of their position safely.

Professor Stewart said legal action was more likely to come from an employee "who's not an anti-vaxxer but somebody who has actually got genuine concerns about the necessity for having the vaccine in a country with very little transmission, and against the background of a continuing degree of debate about how effective the vaccine is in preventing transmission".

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