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The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**No Domestic COVID Vaccine Passports
Bill 2021**

No. , 2021

(Mr Kelly)

**A Bill for an Act to protect the right of Australians
to make their own health decisions in relation to
COVID vaccination, and for related purposes**

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1 **A Bill for an Act to protect the right of Australians**
2 **to make their own health decisions in relation to**
3 **COVID vaccination, and for related purposes**
4 The Parliament of Australia enacts:

Section 1

1 **Part 1—Preliminary**

2

3 **1 Short title**

4 This Act is the *No Domestic COVID Vaccine Passports Act 2021*.

5 **2 Commencement**

6 (1) Each provision of this Act specified in column 1 of the table
7 commences, or is taken to have commenced, in accordance with
8 column 2 of the table. Any other statement in column 2 has effect
9 according to its terms.

10

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act.	The day after this Act receives the Royal Assent.	

11 Note: This table relates only to the provisions of this Act as originally
12 enacted. It will not be amended to deal with any later amendments of
13 this Act.

14 (2) Any information in column 3 of the table is not part of this Act.
15 Information may be inserted in this column, or information in it
16 may be edited, in any published version of this Act.

17 **3 Definitions**

18 In this Act:

19 **authority:**

- 20 (a) of the Commonwealth—includes a Commonwealth entity
21 (within the meaning of the *Public Governance, Performance*
22 *and Accountability Act 2013*); and
23 (b) of a State or Territory—includes a local council.

1 **business** includes a not-for-profit business.

2 **COVID** means the coronavirus commonly known as COVID-19
3 (including any subsequent variants of that coronavirus).

4 **COVID vaccine passport** means a vaccine passport, vaccine
5 certificate, vaccine pass or other standardised documentation
6 (including documentation in electronic form) issued for the
7 purposes of certifying to a third party when an individual has
8 received a COVID vaccination.

9 **discriminates**: see section 4.

10 **employment** includes:

- 11 (a) part-time and temporary employment; and
12 (b) work under a contract for services.

13 **international travel** does not include travel between:

- 14 (a) Australia and an external Territory; or
15 (b) 2 external Territories.

16 **premises** includes:

- 17 (a) stadiums and other sporting facilities and theatres; and
18 (b) theatres, concert halls and other performance venues.

19 **provision of goods or services** includes:

- 20 (a) the provision of accommodation, including:
21 (i) residential accommodation (but not including the
22 provision of residential accommodation in premises if
23 the person who provides or proposes to provide the
24 accommodation or a near relative of that person resides,
25 and intends to continue to reside, on those premises);
26 and
27 (ii) business accommodation; and
28 (b) the provision of education at a school, university or other
29 institution; and
30 (c) the provision of goods or services whether for reward or
31 otherwise.

Section 4

- 1 **services** includes the following:
- 2 (a) services relating to banking, insurance and the provision of
- 3 grants, loans, credit or finance;
- 4 (b) services relating to entertainment, recreation or refreshment;
- 5 (c) services relating to transport or travel;
- 6 (d) services of the kind provided by the members of any
- 7 profession or trade;
- 8 (e) services of the kind provided by a government, a government
- 9 authority or a local government body.

- 10 **vaccination** includes receiving any of the following for the
- 11 purposes of preventing or reducing the risk of COVID infection:
- 12 (a) traditional-style vaccines containing a virus or bacterium (or
- 13 part of a virus or bacterium) as the antigen in a form that is
- 14 not harmful;
- 15 (b) novel, experimental genetic injectable material that tells the
- 16 body to make an antigen that in turn tells the body to create
- 17 antibodies;
- 18 (c) chemoprophylaxis by the administration (whether oral, nasal
- 19 or by injection) of a medication (including
- 20 hydroxychloroquine, IOTA-carrageenan, Ivermectin,
- 21 Povidone-iodine, Quercetin, vitamin D and zinc, or any
- 22 combination of them).

- 23 **voluntary body** means:
- 24 (a) an association or other body (whether incorporated or
- 25 unincorporated) the activities of which are not engaged in for
- 26 the purpose of making a profit; or
- 27 (b) without limiting paragraph (a)—a volunteer firefighting
- 28 service, volunteer emergency service or similar organisation.

29 **4 Meaning of *discriminates***

30 *Discrimination by requiring COVID vaccine passport*

- 31 (1) Without limiting when a person **discriminates** against another
- 32 person on the basis of whether the other person has received a

- 1 COVID vaccination, the first person *discriminates* against the
2 other person on that basis if the first person:
3 (a) requests or requires the other person to produce a COVID
4 vaccine passport; or
5 (b) discriminates against the other person on the basis of whether
6 the other person has a COVID vaccine passport.

7 *Discrimination on multiple bases*

- 8 (2) A reference in this Act to discriminating against a person on the
9 basis of whether the other person has received a COVID
10 vaccination includes a reference to discriminating against the other
11 person on 2 or more bases that include that basis, whether or not
12 that basis is the dominant or substantial reason for the doing of the
13 act.

14 **5 Binding the Crown**

15 This Act binds the Crown in each of its capacities.

16 **6 Extension to external Territories**

17 This Act extends to the external Territories.

Section 7

1 **Part 2—Prohibition on issuing COVID vaccine**
2 **passports and discrimination on basis of**
3 **vaccination**
4

5 **7 Commonwealth**

6 *Commonwealth must not issue COVID vaccine passports*

- 7 (1) The Commonwealth must not issue a COVID vaccine passport.
- 8 (2) Subsection (1) does not prevent the Commonwealth from giving
9 information about whether a person has received a COVID
10 vaccination if the information is given to:
- 11 (a) a court; or
12 (b) a hospital; or
13 (c) a medical practitioner.

14 Note: For issuing a COVID vaccine passport for the purpose of compliance
15 with a foreign law relating to international travel, see section 11.

16 *Commonwealth must not discriminate on basis of COVID*
17 *vaccination*

- 18 (3) The Commonwealth must not discriminate against a person on the
19 basis of whether the person has received a COVID vaccination.
- 20 (4) The Commonwealth must not:
- 21 (a) enter into an agreement with a State, Territory, business, or
22 voluntary body; or
23 (b) fund a State, Territory, business or voluntary body (including
24 by means of a grant); or
25 (c) grant a licence, permit, authorisation, authority or other
26 permission (however described) to a State, Territory,
27 business or voluntary body;
28 if the State, Territory, business or voluntary body is reasonably
29 likely to discriminate against a person (whether or not in

Section 8

1 connection with the agreement, funding, licence etc.) on the basis
2 of whether the person has received a COVID vaccination.

3 (5) For the purposes of subsection (4), a State, Territory, business or
4 voluntary body that has discriminated on the basis mentioned in
5 that subsection in the past is taken to be reasonably likely
6 discriminate on that basis in the future unless the contrary is
7 proved.

8 *Commonwealth authorities*

9 (6) A reference in this section to the Commonwealth includes a
10 reference to an authority of the Commonwealth.

11 **8 States**

12 *States must not issue COVID vaccine passports*

13 (1) A State must not issue a COVID vaccine passport.

14 (2) Subsection (1) does not prevent a State from giving information
15 about whether a person has received a COVID vaccination if the
16 information is given to:

- 17 (a) a court; or
18 (b) a hospital; or
19 (c) a medical practitioner.

20 *States must not discriminate on basis of COVID vaccination*

21 (3) A State must not discriminate against a person on the basis of
22 whether the person has received a COVID vaccination.

23 (4) Subsection (3) does not apply to discrimination against an officer
24 or employee of the State concerned.

25 *State authorities*

26 (5) A reference in this section to a State includes a reference to an
27 authority of a State.

Section 9

1 **9 Territories**

2 *Territories must not issue COVID vaccine passports*

- 3 (1) A Territory must not issue a COVID vaccine passport.
- 4 (2) Subsection (1) does not prevent a Territory from giving
5 information about whether a person has received a COVID
6 vaccination if the information is given to:
- 7 (a) a court; or
 - 8 (b) a hospital; or
 - 9 (c) a medical practitioner.

10 *Territories must not discriminate on basis of COVID vaccination*

- 11 (3) A Territory must not discriminate against a person on the basis of
12 whether the person has received a COVID vaccination.
- 13 (4) A Territory must not:
- 14 (a) enter into an agreement with a State, other Territory, business
15 or voluntary body; or
 - 16 (b) fund a business or voluntary body (including by means of a
17 grant); or
 - 18 (c) grant a licence, permit, authorisation, authority or other
19 permission (however described) to a business or voluntary
20 body;
- 21 if the State, other Territory, business or voluntary body is
22 reasonably likely to discriminate against a person (whether or not
23 in connection with the agreement, funding, licence etc.) on the
24 basis of whether the person has received a COVID vaccination.
- 25 (5) For the purposes of subsection (4), a State, Territory, business or
26 voluntary body that has discriminated on the basis mentioned in
27 that subsection in the past is taken to be reasonably likely
28 discriminate on that basis in the future unless the contrary is
29 proved.

Section 10

1 *Territory authorities*

2 (6) A reference in this section to a Territory includes a reference to an
3 authority of a Territory.

4 **10 Other entities**

5 *Employment*

6 (1) A person must not discriminate against another person, in relation
7 to the first person employing the other person, on the basis of
8 whether the other person has received a COVID vaccination.

9 Penalty: 100 penalty units.

10 *Businesses*

11 (2) A business must not discriminate against a person, in relation to
12 any of the following, on the basis of whether the person has
13 received a COVID vaccination:

14 (a) providing goods or services to the person;

15 (b) giving the person access to business premises.

16 Penalty: 1,000 penalty units.

17 *Voluntary bodies*

18 (3) A voluntary body must not discriminate against a person, in
19 relation to any of the following, on the basis of whether the other
20 person has received a COVID vaccination:

21 (a) the person's membership of the voluntary body;

22 (b) permitting the person to participate in the activities of the
23 voluntary body, including permitting the member to
24 participate in:

25 (i) a theatre group, choir or other cultural activity; or

26 (ii) a sporting team, chess club or knitting group;

27 (c) providing goods or services to the person;

28 (d) giving the person access to premises of the voluntary
29 organisation.

Section 11

1 Penalty: 100 penalty units.

2 **11 Compliance with foreign laws relating to international travel**

3 (1) Subsection 7(1) does not prevent the Commonwealth from issuing
4 a COVID vaccine passport for the purpose of enabling a person to
5 comply with a foreign law relating to international travel.

6 (2) This Part does not apply to discrimination undertaken for purposes
7 relating to compliance with a foreign law relating to international
8 travel.

9 **12 This Part overrides other laws**

10 This Part has effect despite any other law of the Commonwealth, a
11 State or a Territory (whether passed or made before or after the
12 commencement of this section) that requires or permits
13 discrimination on the basis of whether a person has received a
14 COVID vaccination.

Part 3—Miscellaneous

13 Constitutional basis of this Act

- (1) This Act gives effect to Australia’s international obligations, particularly under:
- (a) the International Covenant on Economic, Social and Cultural Rights, particularly article 12; and
 - (b) the International Covenant on Civil and Political Rights, particularly articles 7, 17 and 26.

- (2) In this Act:

International Covenant on Civil and Political Rights means the International Covenant on Civil and Political Rights, done at New York on 16 December 1966, as in force for Australia from time to time.

Note: The Covenant is in Australian Treaty Series 1980 No. 23 ([1980] ATS 23) and could in 2021 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

International Covenant on Economic, Social and Cultural Rights means the International Covenant on Economic, Social and Cultural Rights done at New York on 16 December 1966, as in force for Australia from time to time.

Note: The Covenant is in Australian Treaty Series 1976 No. 5 ([1976] ATS 5) and could in 2021 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

14 Additional operation of sections 8 and 10

- (1) In addition to section 13, sections 8 and 10 also have effect as provided by this section.

Section 14

1 *Trade and commerce*

- 2 (2) Sections 8 and 10 also have the effect they would have if a
3 reference to discrimination were expressly confined to
4 discrimination undertaken in the course of:
5 (a) trade or commerce between Australia and places outside
6 Australia; or
7 (b) trade or commerce among the States; or
8 (c) trade or commerce within a Territory, between a State and a
9 Territory or between 2 Territories.

10 *Communications*

- 11 (3) Section 8 also has the effect it would have if a reference to issuing
12 a COVID vaccine passport were expressly confined to issuing a
13 COVID vaccine passport using a service to which paragraph 51(v)
14 of the Constitution applies.
15 (4) Sections 8 and 10 also have the effect they would have if a
16 reference to discrimination were expressly confined to
17 discrimination undertaken using a service to which paragraph 51(v)
18 of the Constitution applies.

19 *Insurance*

- 20 (5) Sections 8 and 10 also have the effect they would have if a
21 reference to discrimination were expressly confined to
22 discrimination undertaken in the course of insurance to which
23 paragraph 51(xiv) of the Constitution applies.

24 *Corporations*

- 25 (6) Sections 8 and 10 also have the effect they would have if a
26 reference to discrimination were expressly confined to
27 discrimination undertaken by a corporation to which
28 paragraph 51(xx) of the Constitution applies.

1

Territories

2

(7) Sections 8 and 10 also have the effect they would have if a

3

reference to discrimination were expressly confined to

4

discrimination undertaken in a Territory.