



# COVID-19 Response (Vaccinations) Legislation Act 2021

Public Act 2021 No 51  
Date of assent 25 November 2021  
Commencement see section 2

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**Schedule 4**  
**New Schedule 3A inserted into Employment Relations Act**  
**2000**

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the COVID-19 Response (Vaccinations) Legislation Act 2021.

**2 Commencement**

This Act comes into force on the day after the date on which it receives the Royal assent.

**Part 1**

**Amendments to COVID-19 Public Health Response Act 2020**

**3 Principal Act**

This Part amends the COVID-19 Public Health Response Act 2020.

**4 Section 5 amended (Interpretation)**

(1) In section 5(1), insert in their appropriate alphabetical order:

**affected worker** means a worker who is employed or engaged by a PCBU to carry out specified work

**authorised enforcement person** means a person authorised under section 18

**COVID-19 vaccination authorisation**, in relation to a person, means an authorisation granted to the person under a COVID-19 order to carry out specified work despite being unvaccinated

**COVID-19 vaccination certificate** means a certificate that is issued to a person in accordance with a COVID-19 order made under section 11 certifying that the person is—

(a) vaccinated; or

(b) an exempt person

**COVID-19 vaccination exemption**, in relation to a person, means a COVID-19 vaccination exemption granted to the person under a COVID-19 order on the ground that the person meets the specified COVID-19 vaccination exemption criteria

**document** has the same meaning as in section 4(1) of the Evidence Act 2006

**exempt person** means a person who has been granted a COVID-19 vaccination exemption

**PCBU** has the meaning given to it by section 17 of the Health and Safety at Work Act 2015

**representative** has the same meaning as in section 16 of the Health and Safety at Work Act 2015

**specified COVID-19 vaccination exemption criteria** means the criteria for determining whether a person may be granted a COVID-19 vaccination exemption that the Director-General specifies in a notice made under subsection (3)(a)

**specified work** means work, or classes of work, specified in a COVID-19 order made under section 11AB

**vaccinated**, in relation to a person, means the person has received all the required doses of a COVID-19 vaccine or combination of COVID-19 vaccines that—

- (a) the Minister or Director-General specifies in a COVID-19 order;
- (b) the Director-General specifies in a notice made under subsection (3)(b)

**worker** has the meaning given to it by section 19 of the Health and Safety at Work Act 2015

**workplace** has the meaning given to it by section 20 of the Health and Safety at Work Act 2015

- (2) In section 5(1), replace the definition of **authorised person** with:

**authorised person**, in relation to COVID-19 vaccinations, means a person who is authorised by a COVID-19 order to carry out work despite being unvaccinated

- (3) In section 5(1), definition of **COVID-19 order**, replace “section 11” with “section 11 or 11AB”.

- (4) In section 5(1), replace the definition of **Minister** with:

**Minister** means,—

- (a) for the purposes of sections 11AA, 11AB, and 33AA,—
  - (i) the Minister for Workplace Relations and Safety; or
  - (ii) the Minister who, under the authority of any warrant or with the authority of the Prime Minister, is responsible for the administration of those sections:
- (b) for the purposes of any other section,—
  - (i) the Minister for COVID-19 Response; or
  - (ii) the Minister who, under the authority of any warrant or with the authority of the Prime Minister, is responsible for the administration of this Act

- (5) After section 5(2), insert:

- (3) The Director-General may make a notice specifying (for the purposes of all or any legislation in, or made under, this Act)—
  - (a) COVID-19 vaccination exemption criteria:
  - (b) for the purposes of a COVID-19 vaccination, the required doses for each COVID-19 vaccine or combination of COVID-19 vaccines.
- (4) A notice made under subsection (3) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

**Legislation Act 2019 requirements for secondary legislation made under this section**

<b>Publication</b>	The maker must publish it in accordance with the Legislation (Publication) Regulations 2021	LA19 s 74(1)(aa)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

**5 Section 9 amended (Minister may make COVID-19 orders)**

- (1) Replace the heading to section 9 with “**Requirements for making COVID-19 orders under section 11**”.
- (2) In section 9(1), after “COVID-19 order”, insert “under section 11”.

**6 Section 11 amended (Orders that can be made under this Act)**

- (1) Replace section 11(1)(b)(i) with:
  - (i) stay in any specified area, place, or premises or refrain from going to any specified area, place, or premises (including in specified circumstances or unless in compliance with specified measures):
  - (ia) permit entry to any specified areas, places, or premises only in specified circumstances or in compliance with specified measures:
- (2) Replace section 11(1)(b)(iv) with:
  - (iv) refrain from travelling to or from any specified area or place, or refrain from travelling to or from any specified area or place in specified circumstances or unless in compliance with specified measures (for example, refrain from leaving an area unless the person has a COVID-19 vaccination certificate):
- (3) After section 11(1)(g), insert:
  - (h) requiring persons to permit individuals to enter a place or receive a service whether or not those individuals are vaccinated, have a COVID-19 vaccination certificate, or are otherwise able to produce evidence of their vaccination status:
  - (i) specifying the evidence that may be required to be produced, and the person to whom the evidence may be required to be produced to, to demonstrate compliance with a specified measure (for example, specifying

that a COVID-19 vaccination certificate is required to be produced to enter certain premises) and providing for any prohibitions or duties that apply in respect of the use or production of that evidence:

- (j) specifying, for the purposes of a COVID-19 vaccination, the required doses for each COVID-19 vaccine or combination of COVID-19 vaccines:
- (k) in relation to COVID-19 vaccination certificates,—
  - (i) specifying who is eligible to be issued with a COVID-19 vaccination certificate:
  - (ii) specifying how an application for a COVID-19 vaccination certificate must be made, and the information required to accompany that application:
  - (iii) providing for the issue, renewal, and extension of COVID-19 vaccination certificates by the Director-General or by the use of automated electronic systems (which certificates are to be treated as if they were issued, renewed, or extended by the Director-General):
  - (iv) providing for the form and content of COVID-19 vaccination certificates to be determined by the Director-General:
  - (v) specifying the period for which COVID-19 vaccination certificates are valid, or the conditions under which COVID-19 vaccination certificates may expire.

- (4) In section 11(5), after “order”, insert “made under this section”.

## 7 New sections 11AA and 11AB inserted

After section 11A, insert:

### 11AA Requirements for making COVID-19 orders under section 11AB

- (1) The Minister may make a COVID-19 order under section 11AB in accordance with the following provisions:
- (a) the Minister must be satisfied that the order does not limit or is a justified limit on the rights and freedoms in the New Zealand Bill of Rights Act 1990; and
  - (b) the Minister—
    - (i) must have consulted the Prime Minister, the Minister for COVID-19 Response, the Minister of Justice, and the Minister of Health; and
    - (ii) may have consulted any other Minister as the Minister thinks fit; and
  - (c) before making the order, the Minister—
    - (i) may consult the Director-General; and

- (ii) must be satisfied that the order is in the public interest and is appropriate to achieve the purpose of this Act.
- (2) For the purposes of subsection (1)(c)(ii), **public interest** includes (without limitation)—
- (a) ensuring continuity of services that are essential for public safety, national defence, or crisis response:
  - (b) supporting the continued provision of lifeline utilities or other essential services:
  - (c) maintaining trust in public services:
  - (d) maintaining access to overseas markets.

#### **11AB Orders that can be made under this Act relating to specified work**

- (1) The Minister may, in accordance with section 11AA, make an order for 1 or more of the following purposes:
- (a) specifying work, or classes of work, that may not be carried out by an affected worker unless the affected worker is vaccinated, an exempt person, or an authorised person:
  - (b) specifying work, or classes of work, that may not be carried out by an affected worker unless the affected worker reports for and undergoes medical examination or testing for COVID-19, or is otherwise permitted to do the work—
    - (i) at any specified place or time:
    - (ii) in any specified way or specified circumstances:
  - (c) imposing further duties or obligations relating to specified work carried out by affected workers:
  - (d) prescribing how duties imposed under subpart 2A or a COVID-19 order made under this section are to be performed:
  - (e) prescribing record-keeping requirements for the purposes of subpart 2A or a COVID-19 order made under this section, including the content of the records and the manner in which records must be kept.
- (2) An order made under this section may specify which breaches of the order are infringement offences for the purposes of section 26(3), and may specify that a breach of an order is a particular class of infringement offence (with the corresponding penalties) for the purposes of regulations made under section 33(1)(b).
- (3) To avoid doubt, nothing in this section limits the purposes for which an order may be made under section 11.
- (4) If a conflict arises between an order made under this section and an order made under section 11, the order made under section 11 prevails unless specified otherwise in the order made under this section.

- (5) A COVID-19 order made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

**Legislation Act 2019 requirements for secondary legislation made under this section**

<b>Publication</b>	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

**8 Section 12 amended (General provisions relating to COVID-19 orders)**

- (1) In section 12(1)(a), after “things”, insert “(for example, different restrictions may be imposed on persons depending on whether they have a COVID-19 vaccination certificate or on their vaccination status)”.
- (2) After section 12(1)(a), insert:
- (aa) specify the evidence (including any particular form of evidence) that may be required to be produced to demonstrate compliance with a requirement, restriction, direction, or condition:
- (3) In section 12(1)(d)(i), after “provision of”, insert “this Act or”.
- (4) In section 12(1)(d)(ii), after “provision of”, insert “this Act or”.
- (5) In section 12(1)(e), replace “section 11” with “section 11 or 11AB”.

**9 New subpart 2A of Part 2 inserted**

After section 16, insert:

**Subpart 2A—Duties in relation to specified work**

**17A Application of this subpart**

- (1) The duties set out in this subpart apply only if a COVID-19 order is made under section 11AB(1)(a).
- (2) Nothing in this subpart applies to a person to whom the same, or substantially the same, duty is imposed in relation to COVID-19 vaccinations by an order made under section 11.

*Duties of PCBUs*

**17B Duty to keep vaccination records**

- (1) A PCBU must, for each affected worker who carries out specified work for the PCBU, keep a record of the affected worker’s vaccination status.
- (2) The record must contain the information and be kept in the manner prescribed by a COVID-19 order made under section 11AB.

- (3) If an affected worker provides the PCBU with updated information under section 17F, the PCBU must update the vaccination record as soon as practicable after being provided with the information.
- (4) A failure to comply with this section is an infringement offence.

**17C Duty to prevent affected worker from carrying out specified work unless vaccinated**

- (1) A PCBU must not allow an affected worker (other than an exempt person or an authorised person) to carry out specified work unless satisfied that the affected worker is vaccinated.
- (2) A PCBU—
  - (a) must notify each affected worker who carries out specified work for the PCBU of the affected worker’s duty not to carry out that work unless they are vaccinated, an exempt person, or an authorised person; and
  - (b) must not prevent the affected worker from being vaccinated during their normal working hours, if vaccinations are available during those hours.
- (3) A failure to comply with this section is an infringement offence.

*Duties of affected workers*

**17D Duty not to carry out specified work unless vaccinated, exempt, or authorised**

- (1) An affected worker must not carry out specified work unless they are—
  - (a) vaccinated; or
  - (b) an exempt person; or
  - (c) an authorised person.
- (2) A failure to comply with subsection (1) is an infringement offence.

**17E Duty to provide information of vaccination status**

- (1) For the purposes of ensuring compliance with the duties set out in sections 17B and 17C, a PCBU may request an affected worker to provide information (whether in written or electronic form on a device) that verifies the affected worker’s vaccination status (for example, a COVID-19 vaccination certificate, a COVID-19 vaccination exemption, or a COVID-19 vaccination authorisation).
- (2) If a document that is provided under subsection (1) is handed over to a PCBU, the PCBU must immediately return it to the affected worker after—
  - (a) inspecting the document; and
  - (b) taking any copies or images of the document, or extracts from the document, that may reasonably be required for the purpose of verifying compliance with the duties referred to in subsection (1).

- (3) If the affected worker fails to comply with the requirement in subsection (1), the PCBU may treat the affected worker as being unvaccinated or not otherwise permitted to perform their work.

**17F Duty to update information**

If an affected worker has provided information to a PCBU under this subpart, the affected worker must ensure that the information is updated as soon as practicable after it changes.

**10 Cross-heading above section 18 replaced**

Replace the cross-heading above section 18 with:

*Authorised enforcement persons*

**11 Section 18 amended (Authorised persons)**

- (1) In the heading to section 18, replace “**Authorised**” with “**Authorised enforcement**”.
- (2) In section 18(2)(b)(i) and (ii), (4)(b), and (5), replace “authorised person” with “authorised enforcement person” in each place.

**12 New section 23A inserted (Power to direct person to produce evidence of compliance with specified measure)**

After section 23, insert:

**23A Power to direct person to produce evidence of compliance with specified measure**

- (1) This section applies if subpart 2A of this Part or a COVID-19 order permits a person to do anything or go anywhere (for example, enter any areas, places, or premises) only if 1 or more specified measures are complied with.
- (2) For the purpose of enforcing any specified measure under subpart 2A of this Part or contained in the order, an enforcement officer may direct a person to produce evidence (whether in written form or in electronic form on a device) that verifies compliance with the specified measure (for example, produce a COVID-19 vaccination certificate or a test result).
- (3) If a document that is produced as evidence of compliance with a specified measure is handed over to an enforcement officer, the enforcement officer must immediately return it to the person who produced it after—
- (a) inspecting the document; and
  - (b) taking any copies or images of the document, or extracts from the document, that may reasonably be required for the purpose of enforcing the specified measure.

### 13 New sections 33AA and 33AB inserted

After section 33A, insert:

#### 33AA Regulations may prescribe assessment tool

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations prescribing an assessment tool that a PCBU may use to ascertain whether it is reasonable to require workers of the PCBU not to carry out work for the PCBU unless either or both of the following apply:
  - (a) the workers are vaccinated;
  - (b) the workers are required to undergo medical examination or testing for COVID-19.
- (2) The assessment tool may provide—
  - (a) the means of assessing the risk and adverse effects of COVID-19 in respect of ensuring the health and safety of workers and workplaces to support the public health response to COVID-19;
  - (b) for any other matters that the Minister considers relevant for a PCBU to take into account when assessing the risk and adverse effects of COVID-19.
- (3) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

#### Legislation Act 2019 requirements for secondary legislation made under this section

<b>Publication</b>	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

#### 33AB PCBU may conduct work assessment

- (1) To assist a PCBU in meeting their primary duty of care under section 36 of the Health and Safety at Work Act 2015, the PCBU may, in accordance with the assessment tool, conduct an assessment of the work carried out by workers of the PCBU to ascertain whether it is reasonable to require those workers not to carry out that work unless either or both of the following apply:
  - (a) the workers are vaccinated;
  - (b) the workers are required to undergo medical examination or testing for COVID-19.
- (2) In conducting the assessment, the PCBU may, in the PCBU's absolute discretion, decide whether to conduct the assessment in accordance with the assessment tool.

- (3) If the assessment is conducted in accordance with the assessment tool, the PCBU must, so far as is reasonably practicable, consult the PCBU's workers and, if those workers are represented by a representative, the engagement must involve that representative.
- (4) However, a PCBU—
  - (a) must not allow a representative to have access to any personal information concerning a worker without the worker's consent unless the information is in a form that—
    - (i) does not identify the worker; and
    - (ii) could not reasonably be expected to identify the worker; and
  - (b) may refuse, on reasonable grounds, to grant access to the workplace to a representative or a person assisting a representative.
- (5) In this section, **assessment tool** means the assessment tool prescribed by regulations made under section 33AA.

**14 Section 34A amended (Protection of contact tracing information)**

Replace section 34A(1) with:

- (1) Despite anything in the Privacy Act 2020, personal information about an identifiable individual that is collected or obtained for the purpose of contact tracing under this Act (such as through QR scans or paper forms) may not be held, stored, used, or disclosed by anyone except for the purpose of—
  - (a) contact tracing under this Act; or
  - (b) enforcing the Act or a COVID-19 order (including for the purposes of proceedings against a person for non-compliance); or
  - (c) the Health Act 1956.

**15 New sections 34B and 34C inserted**

After section 34A, insert:

**34B Protection of evidence collected or obtained for purpose of determining whether person is vaccinated or has complied with Act or COVID-19 order**

- (1) Despite anything in the Privacy Act 2020, personal information about an identifiable individual that is collected or obtained by any person for the purpose of determining whether the individual is vaccinated, has been issued with a COVID-19 vaccination certificate, or has complied with this Act or a COVID-19 order may not be held, stored, used, or disclosed by the person except for the purposes of—
  - (a) ascertaining whether the individual is vaccinated or has been issued with a COVID-19 vaccination certificate; or

- (b) demonstrating or ascertaining compliance with this Act or a COVID-19 order; or
  - (c) enforcing the Act or a COVID-19 order (including for the purposes of proceedings against a person for non-compliance); or
  - (d) the Health Act 1956.
- (2) Nothing in this section limits the right of an individual to access information about them under the Privacy Act 2020 or any other Act.
- (3) A person who intentionally fails, without reasonable excuse, to comply with subsection (1) commits an offence.
- (4) A person who commits an offence against subsection (1) is liable on conviction to,—
- (a) for an individual,—
    - (i) imprisonment for a term not exceeding 6 months; or
    - (ii) a fine not exceeding \$12,000;
  - (b) for any other person, a fine not exceeding \$15,000.

**34C Breach of section 34A or 34B constitutes interference with privacy of individual under Privacy Act 2020**

A breach of section 34A or 34B constitutes an action that is an interference with the privacy of an individual under section 69 of the Privacy Act 2020.

**16 Schedule 1 amended**

In Schedule 1,—

- (a) insert the Part set out in Schedule 1 of this Act as the last Part; and
- (b) make all necessary consequential amendments.

**17 Schedule 3 amended**

In Schedule 3, forms 1 and 2, replace “*authorised person*” with “*authorised enforcement person*”.

**18 Consequential amendments**

Amend the legislation specified in Schedule 2 as set out in that schedule.

## Part 2

### Amendments to Employment Relations Act 2000

**19 Principal Act**

This Part amends the Employment Relations Act 2000.

**20 New section 238A inserted (Provisions relating to COVID-19 vaccinations)**

After section 238, insert:

**238A Provisions relating to COVID-19 vaccinations**

Schedule 3A contains provisions relating to COVID-19 vaccinations.

**21 Schedule 1AA amended**

In Schedule 1AA,—

- (a) insert the Part set out in Schedule 3 of this Act as the last Part; and
- (b) make all necessary consequential amendments.

**22 New Schedule 3A inserted**

After Schedule 3, insert the Schedule 3A set out in Schedule 4 of this Act.

**Schedule 1**  
**New Part 3 inserted into Schedule 1 of COVID-19 Public Health**  
**Response Act 2020**

s 16

<b>Part 3</b>	
<b>Provisions relating to COVID-19 Response (Vaccinations)</b>	
<b>Legislation Act 2021</b>	
<b>8</b>	<b>Interpretation</b> In this Part,— <b>Act</b> means the COVID-19 Public Health Response Act 2020 <b>amendment Act</b> means the COVID-19 Response (Vaccinations) Legislation Act 2021 <b>commencement day</b> means the day on which the amendment Act comes into force.
<b>9</b>	<b>Transitional provision for COVID-19 vaccination documents issued before commencement day</b> The following documents issued by the Ministry of Health before commencement day must on and from commencement day be treated as COVID-19 vaccination certificates issued in accordance with a COVID-19 order made under section 11 of the Act (as amended by the amendment Act): (a) My Vaccine Pass; (b) International Travel Vaccination Certificate.
<b>10</b>	<b>Savings provision for COVID-19 Public Health Response (Vaccinations) Order 2021</b> Despite section 5(1) of the Act (as amended by section 4 of the amendment Act), the following definitions in clause 4 of the COVID-19 Public Health Response (Vaccinations) Order 2021 continue to apply for the purposes of that order until revoked: (a) COVID-19 vaccination exemption; (b) exempt person; (c) vaccinated.
<b>11</b>	<b>Savings provision for COVID-19 Public Health Response (Air Border) Order (No 2) 2020</b> (1) Despite section 5(1) of the Act (as amended by section 4 of the amendment Act), the following definitions in clause 7E(5) of the COVID-19 Public Health

Response (Air Border) Order (No 2) 2020 continue to apply for the purposes of that order until revoked:

- (a) COVID-19 vaccine:
  - (b) exempt person:
  - (c) vaccination requirement.
- (2) For the purposes of the definition of vaccination requirement in clause 7E(5) of the COVID-19 Public Health Response (Air Border) Order (No 2) 2020, the definition of vaccinated in section 5(1) of the Act (as amended by section 4(1) of the amendment Act) does not apply until the definition of vaccination requirement is revoked.

**12 Transitional provision for specified COVID-19 vaccination exemption criteria**

- (1) This clause applies to the specified COVID-19 vaccination exemption criteria (the **criteria**) approved by the Director-General under clause 9B(12) of the COVID-19 Public Health Response (Vaccinations) Order 2021 and published under that provision in the *Gazette* on 12 November 2021 (2021-go4910).
- (2) The criteria must be treated as having been made under section 5(3)(a) of the Act (as inserted by section 4(5) of the amendment Act) for the purposes of legislation made in or under the Act.

**13 Penalties for infringement offences committed before commencement of section 26(4)**

- (1) This clause applies if an order made under section 11AB(1)(a) (as inserted by the amendment Act) is in force before the date on which section 26(4) of the Act comes into force.
- (2) A person who commits an infringement offence under subpart 2A of Part 2 (as inserted by the amendment Act) before the commencement of section 26(4) of the Act is liable to—
- (a) an infringement fee of \$300; or
  - (b) a fine imposed by a court not exceeding \$1,000.

## Schedule 2

### Consequential amendments

s 18

#### **COVID-19 Public Health Response (Isolation and Quarantine) Order 2020 (LI 2020/241)**

In clause 15GA, revoke the definition of **vaccinated**.

#### **COVID-19 Public Health Response (Required Testing) Order 2020 (LI 2020/230)**

In clause 12A, revoke the definition of **vaccinated**.

#### **COVID-19 Public Health Response (Vaccinations) Order 2021 (LI 2021/94)**

In clause 4, insert in its appropriate alphabetical order:

**specified COVID-19 vaccination exemption criteria** means the criteria for determining whether a person may be granted a COVID-19 vaccination exemption that are specified in a notice made by the Director-General under section 5(3)(a) of the Act

Revoke clause 9B(12).

**Schedule 3**  
**New Part 4 inserted into Schedule 1AA of Employment Relations  
Act 2000**

s 21

**Part 4**  
**Provisions relating to COVID-19 Response (Vaccinations)  
Legislation Act 2021**

**17 Transitional provision relating to termination of employment agreement  
for failure to comply with relevant duties or determination**

Clause 3 of Schedule 3A (as inserted by the COVID-19 Response (Vaccinations) Legislation Act 2021) applies only to an employee who receives a notice under that clause after the commencement of that clause.

**18 Repeal of provisions relating to COVID-19 vaccinations**

- (1) Section 238A and Schedule 3A (as inserted by the COVID-19 Response (Vaccinations) Legislation Act 2021) are repealed on the date on which the COVID-19 Public Health Response Act 2020 is repealed.
- (2) The repeals in subclause (1) do not affect—
  - (a) an existing right under the repealed legislation;
  - (b) the completion of any process or proceedings started but not completed by the close of the day immediately before the repeal;
  - (c) the previous operation of the repealed legislation or anything done or suffered under it.

**Schedule 4**  
**New Schedule 3A inserted into Employment Relations Act 2000**

s 22

**Schedule 3A**  
**Provisions relating to COVID-19 vaccinations**

s 238A

**1 Interpretation**

In this schedule, unless the context otherwise requires, **COVID-19 order** and **vaccinated** have the same meanings as in section 5(1) of the COVID-19 Public Health Response Act 2020.

*Paid time off for COVID-19 vaccination*

**2 Employee entitled to paid time off to be vaccinated**

- (1) An employee is entitled to reasonable paid time off during their normal working hours to receive a dose of a COVID-19 vaccine if providing the time off would not unreasonably disrupt—
  - (a) their employer's business; or
  - (b) the performance of the employee's employment duties.
- (2) Before taking paid time off under subclause (1), the employee must notify their employer of—
  - (a) the date and time on 1 or more days on which the employee intends to receive a dose of a COVID-19 vaccine; and
  - (b) the amount of time that the employee expects to take as paid time off in order to receive that dose, including any time spent travelling to or from a location to receive the dose.
- (3) An employer may refuse to allow an employee to take paid time off under subclause (1) only if satisfied, on reasonable grounds, that providing the paid time off would unreasonably disrupt the employer's business or the performance of the employee's employment duties.
- (4) Paid time off must be paid at the rate of pay that the employee would otherwise have received if the employee were performing their ordinary employment duties during that time.

*Termination of employment agreement for failure to comply with relevant duties or determination*

**3 Termination of employment agreement for failure to comply with relevant duties or determination**

- (1) This clause applies to the following employees:
  - (a) an employee who has a duty imposed by or under the COVID-19 Public Health Response Act 2020 not to carry out work (however described) unless they are—
    - (i) vaccinated; or
    - (ii) required to undergo medical examination or testing for COVID-19; or
    - (iii) otherwise permitted to perform the work under a COVID-19 order:
  - (b) an employee whose employer has determined the employee must be vaccinated to carry out the work of the employee.
- (2) For the purposes of subclause (1)(b), the employer must give the employee reasonable written notice specifying the date (the **specified date**) by which the employee must be vaccinated in order to carry out the work of the employee.
- (3) If the employee is unable to comply with a duty referred to in subclause (1)(a) or a determination referred to in subclause (1)(b) because they fail to comply with the relevant requirements of the COVID-19 Public Health Response Act 2020 or a COVID-19 order, or they are not vaccinated by the specified date, their employer may terminate the employee's employment agreement by giving the employee the greater of—
  - (a) 4 weeks' paid written notice of the termination:
  - (b) the paid notice period specified in the employee's terms and conditions of employment relating to termination of the agreement.
- (4) Before giving a termination notice under subclause (3), the employer must ensure that all other reasonable alternatives that would not lead to termination of the employee's employment agreement have been exhausted.
- (5) A termination notice given under subclause (3) is cancelled and is of no effect if, before the close of the period to which the notice relates, the employee becomes—
  - (a) vaccinated; or
  - (b) otherwise permitted to perform the work under a COVID-19 order.
- (6) Subclause (5) does not apply if cancelling the notice would unreasonably disrupt the employer's business.
- (7) Nothing in this clause—

- (a) prevents an employee whose employment agreement is terminated under subclause (3) from bringing a personal grievance or legal proceedings in respect of the dismissal:
- (b) prevents the parties to the employment relationship from mutually agreeing—
  - (i) to terminate the employee’s employment agreement; and
  - (ii) that the employer will pay the employee in accordance with subclause (3).

### Legislative history

23 November 2021

Introduction (Bill 101–1), first reading, second reading,  
committee of the whole House, third reading

25 November 2021

Royal assent

This Act is administered by the Ministry of Health.