

INTRODUCTION

April 2022 saw a substantial shift in the government's pandemic response, as vaccination requirements for workers in close proximity and hospitality businesses were lifted. And on 2 and 7 July 2022 Vaccine mandates were lifted for border workers, corrections staff, the fire and emergency sector, police and defence force sectors, and in some healthcare environments where workers are not public facing or dealing with patients directly.

Currently vaccination mandates still apply to health practitioners dealing with patients in person. They also apply to workers in medical centers, GP practices, pharmacies, or those who are engaged by certified providers such as hospitals, rest homes or residential disability care facilities where certain contact requirements are met.

What are the implications of the government's progressive relaxation of vaccine mandates, especially in the private sector?

With the recent relaxation of vaccination mandates and new public health advice from the Ministry of Health, WorkSafe are encouraging employers to review their existing risk assessments and vaccination policies to ensure they are still necessary and to update them if required.

The purpose of a risk assessment is to identify and manage the risk of contracting and/or transmitting COVID-19 in the workplace. With COVID-19 community transmission now widespread and with the high levels of vaccination in the population, assessments undertaken at an earlier stage in the pandemic possibly no longer support a mandatory vaccination policy. Guidance from WorkSafe is that many workplaces may find vaccination requirements in unmandated sectors difficult to justify as a measure against COVID-19 where the risk of contracting or transmitting COVID-19 is not greater in the workplace than in the general community.

WHAT DOES THIS MEAN FOR YOU?

For some businesses in the healthcare sector, the recent changes may raise some issues. For example, in a medical clinic, a health practitioner will be required to be vaccinated, however back-office staff such as accountants will not be required to do so. In those circumstances the workplace will have a mix of vaccinated and unvaccinated employees. These businesses may need to consider other steps and measures to address any anxiety vaccinated staff members may have about the prospect of working alongside staff members who are no longer required to be vaccinated.

If an employer has terminated an employee for non-compliance with a vaccination mandate, prior to changes to mandates coming into effect, then there is no obligation to re-employ that person. If an employer is currently in a process of terminating an employee, commenced prior to the recent changes, the employer will need to reassess proceeding with the termination as the termination may not be justifiable now.

Employers with a vaccination policy arising from an internal risk assessment process should review the risk assessment and the need for any current vaccination policy. It is imperative that a business' risk assessment and related policy shows that vaccination for specific roles is still necessary under the current circumstances and COVID-19 Protection Framework setting.

Any risk assessment review or changes to an existing vaccination policy requires consultation with affected employees. Part of any review should involve a consideration of measures other than vaccination, to mitigate the COVID-19 risks in the workplace, such as hygiene measures and practices, not reporting for work if symptomatic, mask wearing, social distancing, RAT testing and working from home where applicable.

If you need further advice on COVID-19 vaccination mandates or help with the review or conduct of risk assessments in the formulation of vaccination policies appropriate to your workplace, then please contact one of the Jackson Russell lawyers listed.

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Disclaimer: The information contained in this document is a general overview and is not legal advice. It is important that you seek legal advice that is specific to your circumstances.

