

# Covid-19 Vaccinations

Considerations for Employers  
and Legislative Update

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# Agenda

- COVID-19 Vaccinations
  - Mandatory vaccinations
  - Roll-out guidance for all workplaces.
- Legislative Update

**"This is not about freedom, or  
personal choice, it's about protecting  
yourself and those around you"**

**President Joe Biden**

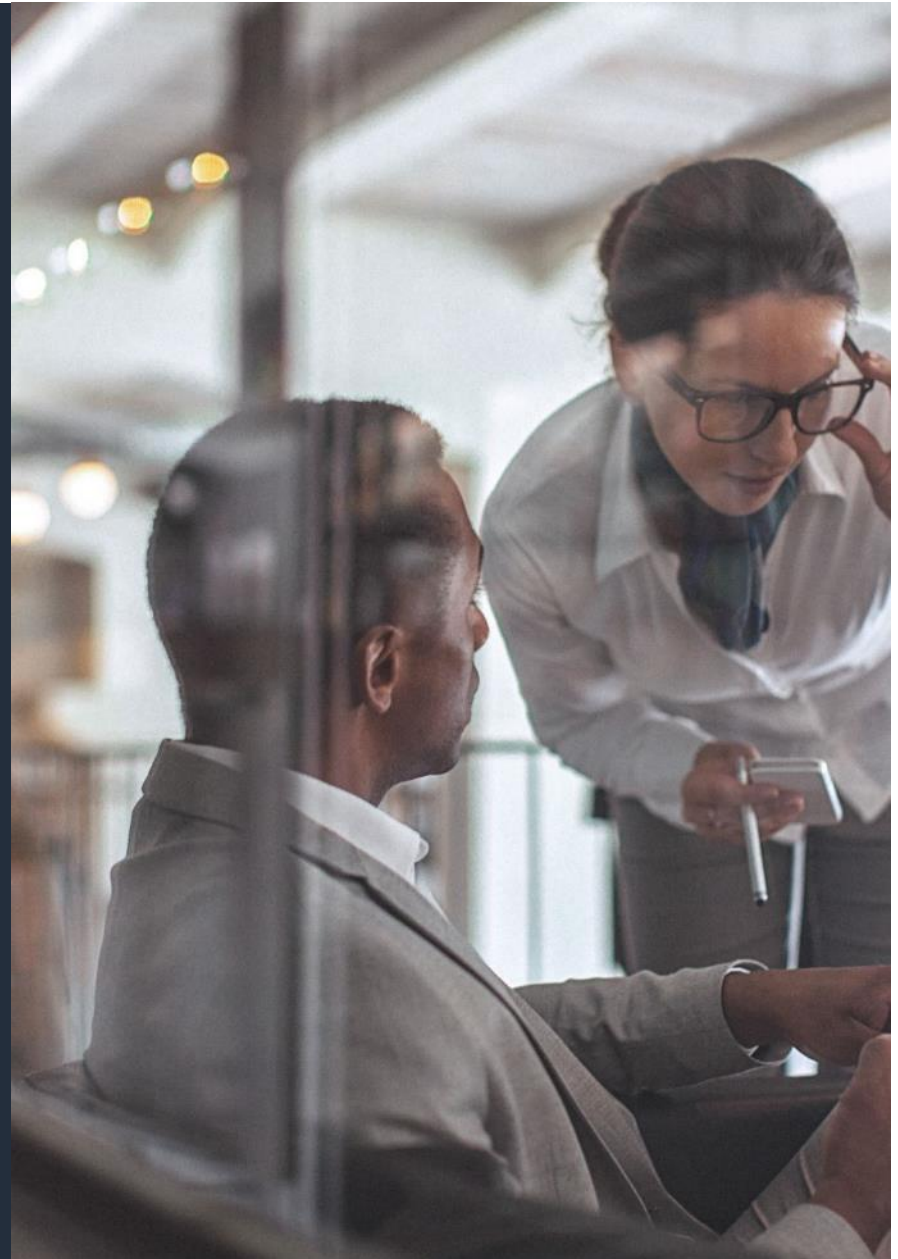
(8 September 2021)

# Relevant legal framework

- Bill of Rights Act 1990 – right to refuse medical treatment
- Employment Relations Act 2000 – test of justification
- Human Rights Act 1993 – anti-discrimination obligations
- Health and Safety at Work Act 2015

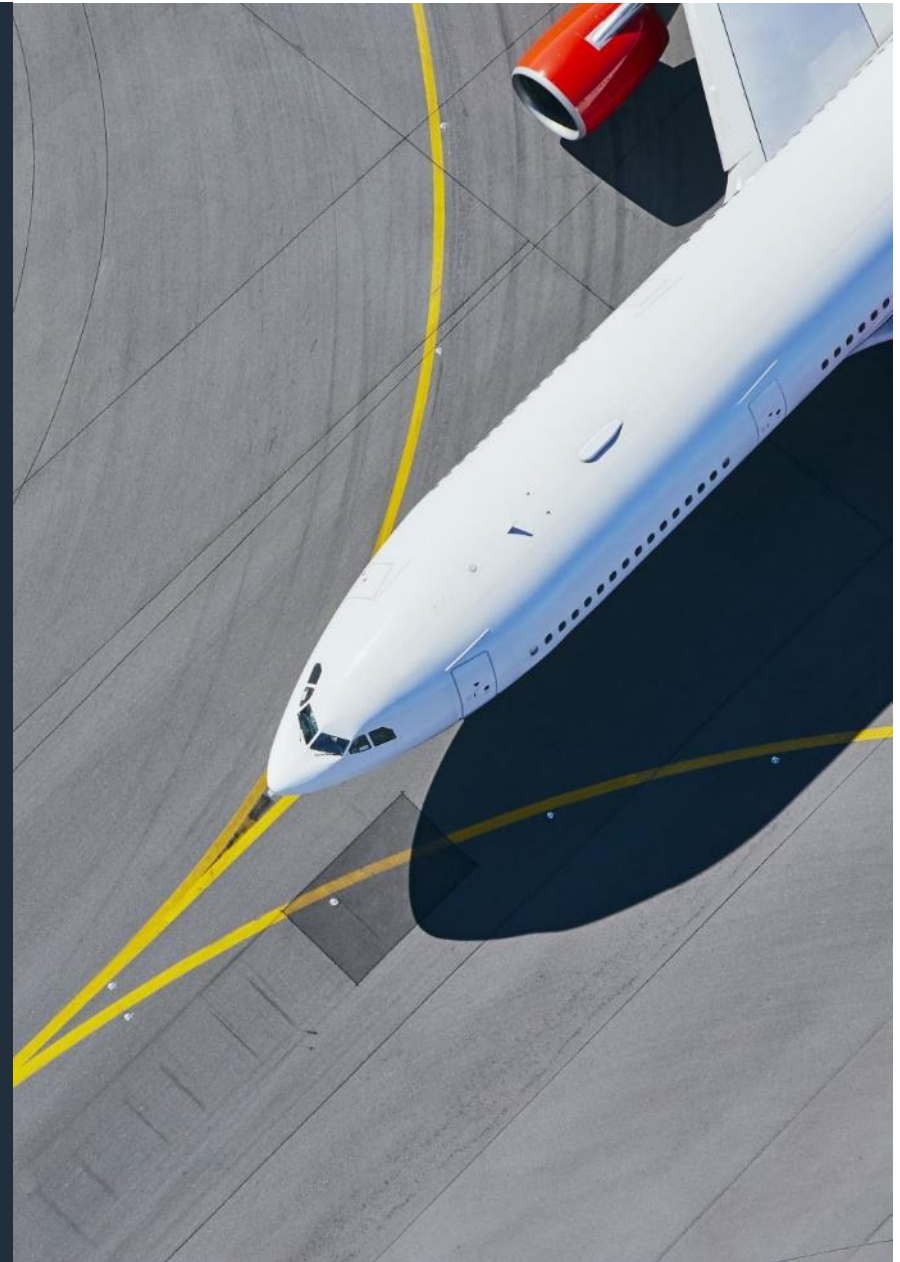
# Vaccinations order

- COVID-19 Public Health Response (Vaccinations) Order 2021
  - workers at MIQ facilities
  - airports receiving foreign planes
  - ports receiving foreign ships
  - international air crew
  - workers handling certain items and have contact with workers at those places.
- Must be vaccinated to work
- Still need to assess impact on employment and consult
- Extended scope?



# Existing Employees

- Mandatory vaccination likely difficult
- Need agreement to any new conditions of employment
- Mandatory vaccinations may be possible for high risk roles
- Robust health and safety risk assessment
- Consultation
- Consider risk mitigation alternatives and changes to role/duties

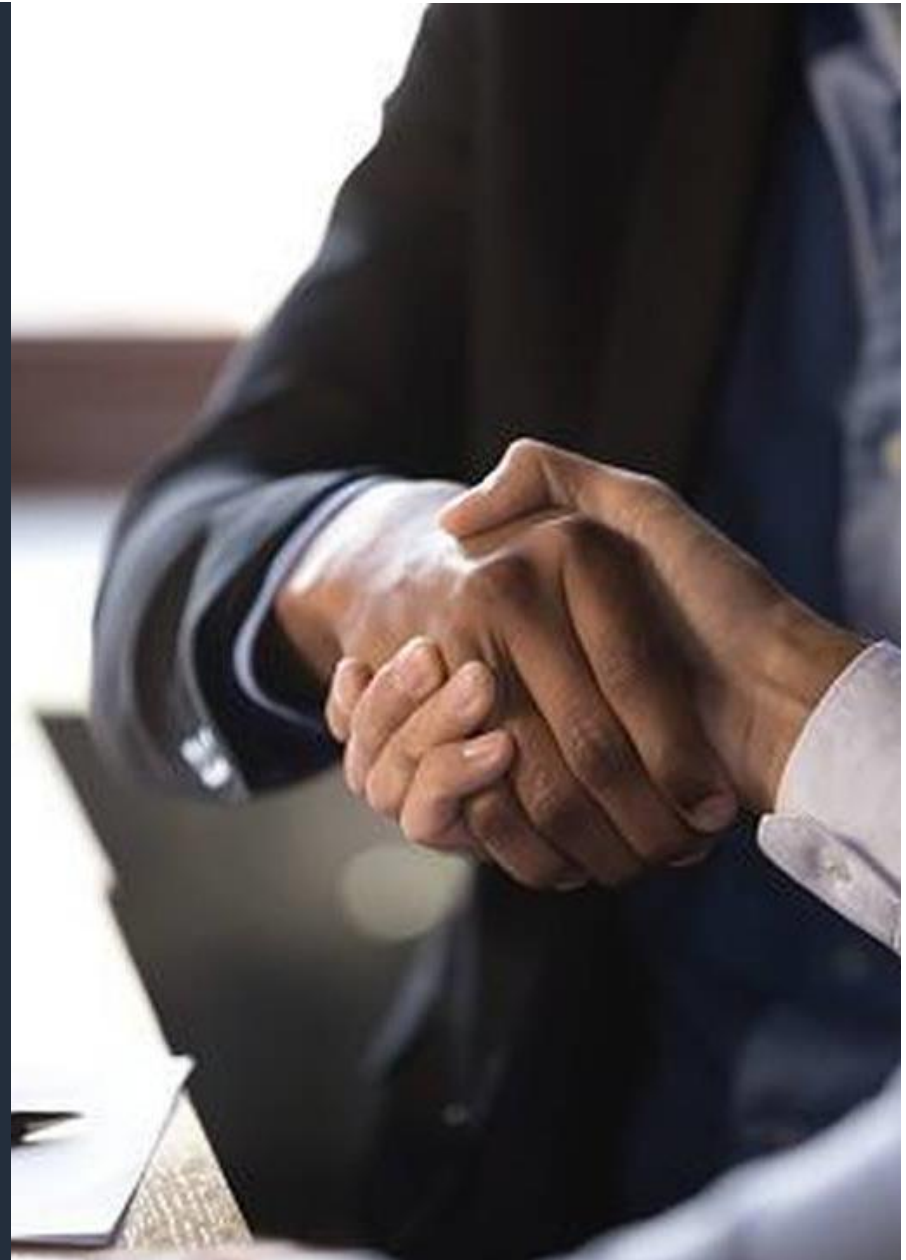


# *GF v New Zealand Customs Service (2021)*

- First COVID-19 vaccination case
- Concerned an unvaccinated border worker
- Robust education and consultation process regarding staff vaccinations
- Authority found Customs could lawfully require the role to be performed by a vaccinated person
- Therefore justified in dismissing the employee.

# New Employees

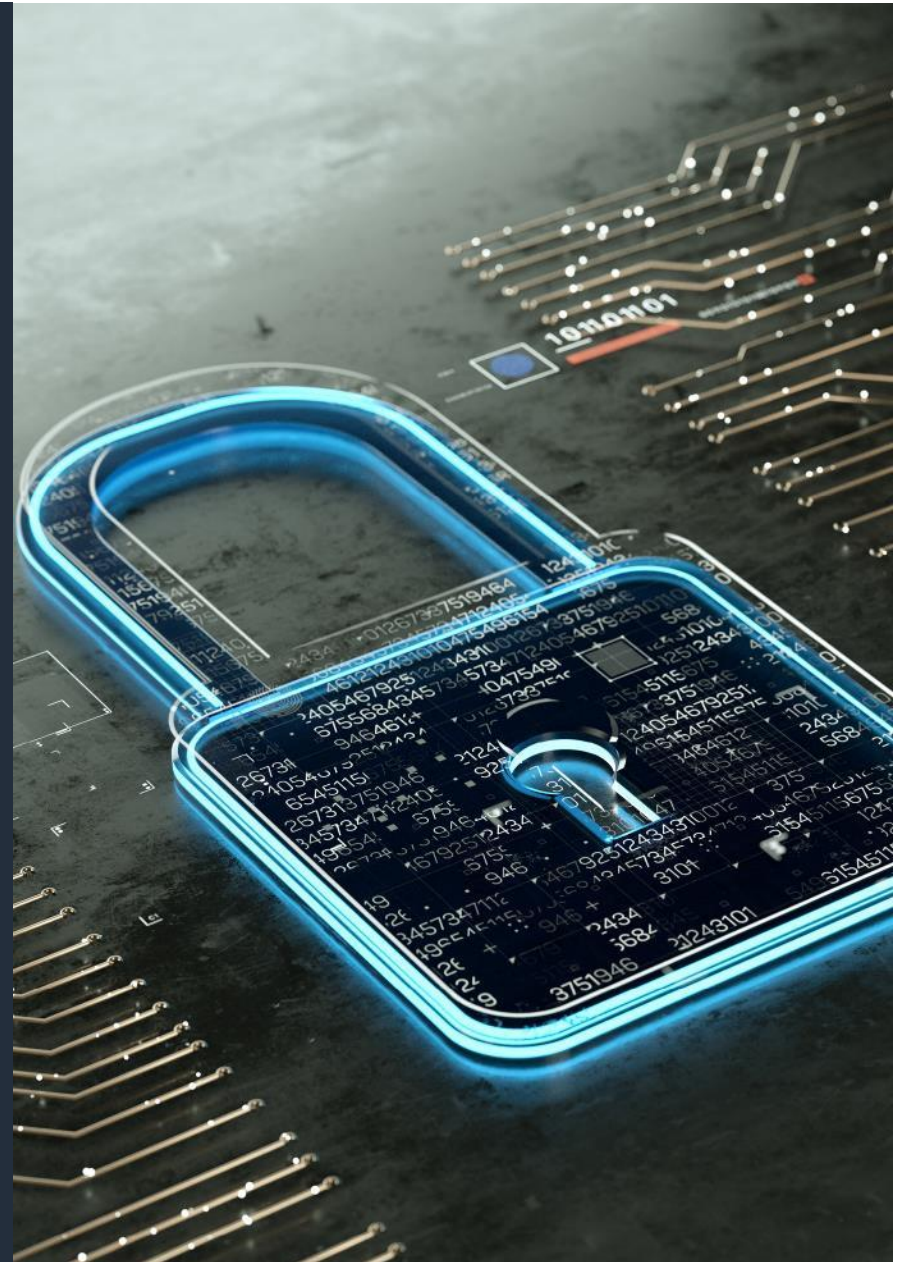
- 'No jab, no job' policy?
- Vaccination a condition of employment
- Anti-discrimination obligations apply
- Vaccination must be reasonable for the role





# Privacy considerations

- A person's Covid19 status is "health information" and is therefore sensitive
- Personal information under the Privacy Act 2020
- Consider appropriate storage and usage of such information
- Obtain consent before disclosing vaccination information.



# Vaccination roll-out guidance

- **Government goal:** Vaccinate all those who can be vaccinated (mandatory requirement of vaccination for border/MIQ staff)
- **MBIE:** Employers should encourage and support workers to get vaccinated
- **Public Service Commission:** Expectation that all public service workers that can be vaccinated are vaccinated.

Four key concepts useful to all organisations:

Plan



Educate



Expect



Support





# Plan

- Review information available
- Develop a vaccination plan within the organisation
- Consult with unions and staff
- Monitor the uptake of the vaccine.



# Educate

- Keep up to date with MoH communications and guidance
- Recognise the importance of providing information before vaccination
- Give staff quality and up to date information
- Work with unions and Health and Safety reps.



# Expectations

- Set and communicate any vaccination expectations
- Lead from the top: vaccinate leadership team.



# Support

- Administer vaccinations at work if possible
- Pay employees for the time spent
- Paid special leave for any time-off needed due to side-effects
- Vaccination incentives?

# Summary

- Be proactive in engagement with staff
- Keep employees informed and educated
- Focus on practical support
- Revise employment agreements/policies
- Proceed with caution when requiring vaccination.

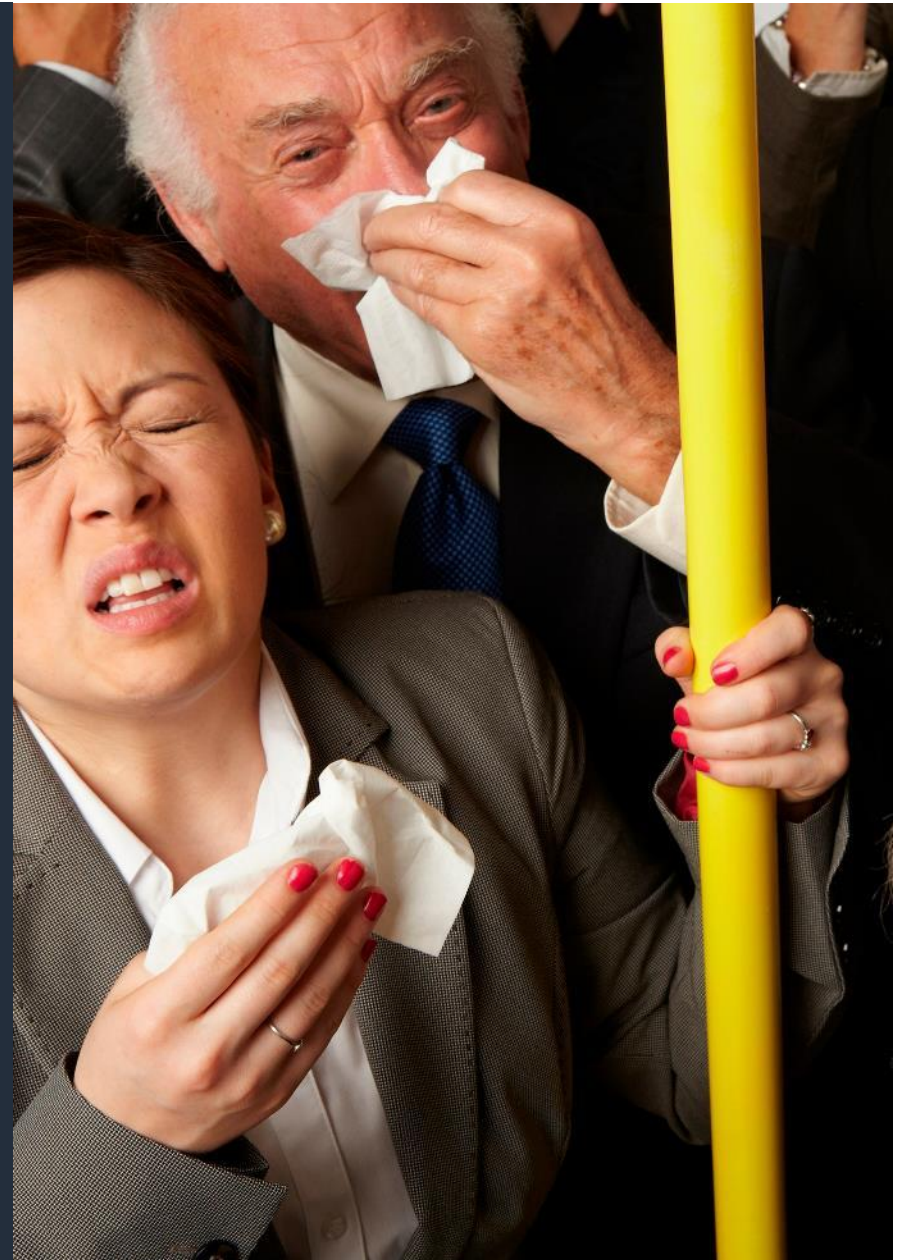


# Legislative updates



# Holidays (Increasing Sick Leave) Amendment Act 2021

- Increases minimum sick leave entitlements to 10 days, maintains the current maximum entitlement of unused sick leave at 20 days annually;
- Prevents employees accruing large amounts of sick leave;
- Presents opportunity for further changes to sick leave policies.



# Bereavement Leave - amendments to the Holidays Act 2003

- In force since 31 March 2021
- Miscarriage or still-birth, at any time during the pregnancy, will entitle the bereaved employee and their spouse to three days' paid bereavement leave.



# What's on the horizon?

- Public holiday - Matariki
- Parent teacher interview leave
- Possible new category of workers – dependent contractors
- Fair pay agreements





**Questions?**

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