



Government Suspends Vaccine Mandates for Aviation Employers - So Now What?

June 16, 2022

On Tuesday, June 14, 2022, Transport Canada announced the suspension of vaccination requirements for domestic and outbound passengers and employees in the federally regulated transportation sectors, effective June 20, 2022. This announcement was followed by the release of [Interim Order for Civil Aviation Respecting Requirements Related to Vaccination Due to COVID-19, No. 3](#), which includes a provision indicating that the Interim Order will cease to have effect as of 00:00:01 on June 20th. This is very good news for the aviation industry as it struggles to return to normal operations.

Masks will continue to be required in airports, during security screening, and on all federally regulated aircraft with the exception of brief periods for eating and drinking.

The [Treasury Board of Canada Secretariat](#) also announced that as of Monday, June 20, 2022, the Government of Canada will be suspending the [Policy on COVID-19 Vaccination for the Core Public Administration](#), and will not be moving forward with proposed regulations to mandate vaccination in all federally regulated workplaces.

Employers will be responsible for establishing return-to-work practices for those employees who were unable to work because of the mandatory vaccination requirements.

The Government will continue to evaluate the measures in place and respond based on the latest public health advice and science and have indicated that it is possible the mandate may be reinstated in the future should it become necessary to do so.

In Our View

Given the Government's comments about the possibility of reinstating vaccine mandates in the future, we recommend that employers suspend their vaccination policies for the time being rather than repealing them altogether. Employers may choose to keep their vaccination policies in place, but they will be more difficult to defend in the absence of the Interim Order imposing a regulatory requirement for such a policy.

Given that vaccination requirements are typically only part of a COVID-19 risk mitigation policy, consideration should be given to maintaining aspects of the policy including masking and screening in a separate revised policy, based on federal, provincial, and local public health guidance and directives. Whether this is achieved via a revision or replacement of the existing policy, the message that vaccination requirements could be re-imposed by government should be a key element in the



employer's policy response. The policy should encourage vaccination and consideration should be given to requiring employees to disclose their vaccination status on an ongoing basis in some circumstances.

Many employers added vaccination as a condition of hire. Employers should consider maintaining this requirement given the possibility that vaccine mandates may be re-imposed by government.

With respect to returning unvaccinated employees to work, employers should be cognizant of the following:

1. The lifting of the vaccination mandates does not give the returning employee the automatic right to show up for work on the morning of Monday, June 20 expecting to commence their pre-leave duties at their pre-leave pay if their return to work is delayed due to reasonable operational considerations. The employer, the employee, and their union if applicable, should be involved in crafting the return-to-work protocol. There may be issues related to retraining or lapsed qualifications. There may be issues with respect to terminating or reassigning employees hired or assigned to positions vacated by employees placed on leave. Returning unvaccinated employees should be contacted to determine whether or not they wish to return to work. In some cases, due to employee performance or employer need, the employer may not want the employee to return. Employers are encouraged to discuss these scenarios with their legal counsel prior to making any decisions.
2. Returning unvaccinated employees should be advised that they may be placed on unpaid leave again, and possibly on very short notice, should that be required in response to COVID-19 risk and re-imposed vaccination mandates.
3. Unionized employers are encouraged to engage with their unions with respect to return-to-work matters and any grievances that were filed in response to the vaccination policy or its application.
4. Employers should be prepared for some friction between vaccinated and unvaccinated employees that are returned to work, particularly in situations where the return of the unvaccinated employee results in a vaccinated employee being bumped, re-assigned, or terminated.
5. Employers are encouraged to be clear in communicating next steps and expectations with unions and employees given this fluid situation.

Finally, unionized employers that are preparing for collective bargaining should review their collective agreements and consider proposals that enhance their ability to respond to future pandemics. Non-union employers that have not already done so should be reviewing their policies and employment contracts to ensure that they will serve as effective pandemic risk mitigation tools during the next pandemic.

For more information on your rights and obligations as an employer in the aviation sector dealing with



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COVID-19 vaccinations or related issues, please contact [Steven Williams](#) at 613-940-2737, [Lauren Jamieson](#) at 613-404-5058, or [Marianne Abou-Hamad](#) at 613-240-2170.