

Consultation Paper: *COVID-19 Vaccination Regulations*

Introduction

As a stakeholder of interest, the Labour Program of Employment and Social Development Canada (the Labour Program) invites you to participate in consultations on a new regulatory initiative related to COVID-19 vaccination of federally regulated employees.

Issue

According to the Public Health Agency of Canada, as of December 3, 2021, more than 86% of individuals (12 years and older) in Canada were fully vaccinated, with numbers continuing to rise daily. Vaccination of employees against COVID-19 is the best solution to help protect employees from the risk of COVID-19, help prevent outbreaks, and build confidence in the health and safety of the work place. Protecting employees is just as important as ever as we continue to face new variants of concern.

From an occupational health and safety perspective, a person who is not vaccinated against COVID-19 might be a hazard in the work place and is more at risk of negative health outcomes relative to other employees who are fully vaccinated against COVID-19 if they contract COVID-19. As more non-essential employees begin their gradual return to the work place there could potentially be an increase in the risk of transmission.


Background

The COVID-19 pandemic continues to significantly impact the lives and livelihoods of Canadians, as the public health situation constantly changes. According to PHAC, “Vaccination is one of the most effective ways to protect our families, communities and ourselves against COVID-19”, and COVID-19 vaccines in Canada are effective at providing protection against known COVID-19 variants.

COVID-19 vaccination policies, requirements and limitations for individuals not vaccinated are becoming common place across Canada as several jurisdictions across Canada implement COVID-19 vaccination passports or similar programs, and, many public and private employers of all sizes across the country are voluntarily establishing COVID-19 vaccination requirements for their employees.

As part of its ongoing response to the COVID-19 pandemic, on [August 13, 2021](#), the Government of Canada announced plans to require COVID-19 vaccinations across the federal public service and the federally regulated transportation sector (i.e., air, rail, and marine), including certain travelers.





On [October 6, 2021](#), the Prime Minister reaffirmed this commitment. In addition, the announcement stated that Crown corporations and agencies are being asked to implement vaccine policies and that the government will keep working with employers in other federally regulated work places to ensure vaccination is prioritized for workers in these sectors.

What We Have Heard

In response to the Government of Canada's announcements on August 13 and October 6 to require COVID-19 vaccinations across the federal public service and the federally regulated transportation sector, the Labour Program conducted limited and targeted outreach at the working level with stakeholders in the federally regulated private sector to gain initial reactions and feedback.

Stakeholders from the banking sector, road transportation sector, other sectors (including telecommunications) and employee representative groups all expressed concerns around employee refusals to be vaccinated leading to labour shortages and impacts on operations. Stakeholders from each of these groups also mentioned concerns about meaningful engagement, guidance, and clarity from the Government.

Stakeholders from the road transportation sector, specifically, emphasized the importance of a cohesive Canada-United States approach to vaccination requirements as to not negatively affect supply chains and labour force.

Several large federally regulated employers (such as some banks and telecommunication companies) have already implemented their own vaccination policies.

Indigenous partners shared that vaccine hesitancy in some communities may come from historical trauma and raised questions about the Government of Canada's authority to mandate vaccinations. Mandatory vaccination requirements would likely elicit negative reactions from First Nations partners and meaningful engagements would be important for the implementation of such requirements.

Regulatory Initiative

Policy Intent

In response to the announcement, the Labour Program is developing the *COVID-19 Vaccination Regulations* (the Regulations) under Part II of the *Canada Labour Code* (the Code) for application to federally regulated employers covered by that Part.

Through the new standalone Regulations, it is expected that the Labour Program will require vaccination of federally regulated employees.

The new regulations will complement existing occupational health and safety measures, such as masking, handwashing and physical distancing, to provide further protection against the risk of transmission of COVID-19 in the work place.

It is expected that employers will have the following responsibilities to ensure the proper application of the above mentioned requirement:

- Ensure employers obtain an attestation of vaccination or proof of vaccination from all employees;
- Exempt employees who, for reasons protected by the *Canadian Human Rights Act* (CHRA), are unable to provide an attestation of vaccination or proof of vaccination;
- In consultation with the policy committee, or if there is no policy committee, with the work place committee or the health and safety representative, conduct a work place assessment to identify whether any additional measures are necessary to prevent the transmission of COVID-19 in the work place before an exempted employee attends a work place controlled by the employer;
- When necessary, take additional measures to prevent the transmission of COVID-19 in the work place before an exempted employee attends a work place controlled by the employer;
- In consultation with the policy committee, or if there is no policy committee, with the work place committee or the health and safety representative, identify the limited circumstances when employees who are not required to attend the workplace are excluded from having to provide an attestation of vaccination or proof of vaccination; and,
- Keep a record of:
 - The COVID-19 vaccination status of employees, including the attestations of vaccination or proofs of vaccination; and,
 - The completed work place assessments and any preventive measures taken.

To ensure these requirements are enforceable through administrative monetary penalties (AMPs), it is expected that consequential amendments will be made to the *Administrative Monetary Penalties (Canada Labour Code) Regulations* (AMPs Regulations) made under Part IV of the Code.

The Regulations are anticipated to be directly published in [Canada Gazette](#) Part II, and come into force early in 2022. The Labour Program will provide guidance regarding the Regulations, and resources will be developed to help federally regulated work places implement the COVID-19 vaccination requirements.

Objectives

The objective of the Regulations is to help protect the occupational health and safety of federally regulated employees by requiring employers to obtain confirmation of full COVID-19 vaccination status from their employees.

Discussion Objectives and Questions

Given compressed timelines, stakeholders participating in the consultations process will have the opportunity to provide their feedback on the following policy questions during the upcoming virtual consultation session. The Labour Program requests all stakeholders nominate a spokesperson to share their organizations' comments during the consultation session.

Key Questions

1. Will the proposed Regulations help employers respond to the COVID-19 pandemic?
2. Based on our summary of the Regulations, what feedback do you have?
3. Following the publication of the Regulations, how long do you think it will take employers to ensure their employees are fully vaccinated against COVID-19?
4. How do you anticipate employers supporting employees **unable** to become fully vaccinated for reasons protected under the *Canadian Human Rights Act*?
 - a. How well do you know, or believe employers and employees know, how the *Canadian Human Rights Act* applies in this context?
5. What criteria should employers and health and safety committees consider in determining which other employees not required to enter the workplaces may, in certain limited circumstances, be excluded from having to provide an attestation of vaccination or a proof of vaccination?
 - a. What documentation should employers keep to support these decisions?
6. How do you anticipate employers managing employees **unwilling** to become fully vaccinated?
7. The Regulations are expected to be time-limited. Given the uncertainty surrounding the COVID-19 pandemic, how long do you think these Regulations should remain in place?
8. How prepared do you feel employers and employees are to implement the proposed requirements?

-
9. When employees are required to return to the work place, do you believe the Regulations may help employees to feel safe at work?

Next Steps

A second virtual consultation meeting may occur soon to focus on the implementation of the proposal.

Following consultations, the Labour Program will have greater insight into how a vaccination regulatory initiative could be implemented in the federally regulated sector and will inform the Labour Program's policy. When the Regulations are published, the Labour Program will inform stakeholders and provide links to the new Regulations and Labour Program's guidance material, as well as other resources available.



Government
of Canada

Gouvernement
du Canada

Canada.ca > [Employment and Social Development Canada](#)

Government of Canada will require employees in all federally regulated workplaces to be vaccinated against COVID-19

From: [Employment and Social Development Canada](#)

News release

December 7, 2021

Gatineau, Quebec

Employment and Social

Development Canada

Vaccination is the best line of defense against COVID-19. It not only protects those who are vaccinated, but it protects vulnerable populations like young children who aren't yet able to get vaccinated. To finish the fight against COVID-19, protect workers and their families, and ensure businesses can get back up to speed, we need to do everything we can to keep public spaces safe, particularly as we continue to face new variants.

Today the Minister of Labour, Seamus O'Regan Jr., announced that the Government of Canada will propose regulations under Part II of the *Canada Labour Code* to make vaccination mandatory in federally regulated workplaces. These regulations would complement existing occupational health and safety measures, such as masking, handwashing, and physical distancing, and provide further protection against the risk of COVID-19 transmission in the

workplace. The Government will consult with key stakeholders, including representatives of small and medium-sized employers, as it works expeditiously to finalize the new regulations, which would come into force in early 2022.

The Government will also develop resources to help federally regulated workplaces implement the COVID-19 vaccination requirements in consultation with their workplace health and safety committees or representatives.

Mandatory vaccination requirements are already in place for the public sector, employees working in the federally regulated air, rail, and marine transportation sectors, and travelers on these modes of transportation. The new regulations would ensure that employees in all other federally regulated industries, such as road transportation, telecommunications, and banking, are also vaccinated. Many employers in these and other industries have already made vaccination mandatory for their employees. By doing so, employers and employees are helping to limit the spread of COVID-19 in their workplaces and their communities.

Quotes

“Canada has led the world on vaccination rates, thanks to Canadians, their belief in science, and their willingness to roll up their sleeves. Making vaccination mandatory across all federally regulated workplaces will protect workers, their families, and their communities. It will help us finish the fight against COVID-19 and help us sustain a strong and stable economic recovery.”

– Minister of Labour, Seamus O’Regan Jr.

“Vaccinations are one of the strongest tools we have in the fight against COVID-19 and in keeping Canadians safe and healthy. Through these requirements we help add an extra layer of protection in federally regulated workplaces. I encourage Canadians who have not yet received a vaccine to book their shot today.”

– Minister of Health, Jean-Yves Duclos

Quick facts

- The federally regulated sector is comprised of workplaces from a broad range of industries, including interprovincial air, rail, road, and marine transportation, pipelines, banks, postal and courier services, among others.
- There are approximately 18,500 employers in federally regulated industries, including federal Crown corporations, which together employ 955,000 people (about 6% of all employees in Canada). The vast majority (87%) of these people work in companies with 100 or more employees. These figures exclude the federal public service. Including the federal public service, there are approximately 19,000 employers and 1,300,000 employees (about 8.5% of all employees in Canada).
- All federal public servants in the Core Public Administration (CPA), including members and reservists of the Royal Canadian Mounted Police (RCMP) must be vaccinated against COVID-19. This requirement applies whether employees are teleworking, working remotely or working on-site. More than 95% of employees have attested to being fully vaccinated and approximately 98% have had at least one dose.

- Employers who do not comply with their obligations under the *Canada Labour Code* may be subject to compliance and enforcement measures, including administrative monetary penalties.
- In recognition of Indigenous peoples' right to self-determination and self-government, Indigenous Governing Bodies and First Nation Band Councils will be exempted from the new requirements. The Government of Canada will work with Indigenous partners to provide information on the new measures should they wish to follow the same approach, however, doing so will be at their discretion. This is also in line with the Government's commitment to implement the United Nations Declaration on the Rights of Indigenous Peoples.
- A copy of the consultation paper may be requested from the Labour Program by email at EDSC.LAB.SST.POLITIQUES-LAB.OHS.POLICY.ESDC@hrsdc-rhdcc.gc.ca.

Associated links

- [Prime Minister announces mandatory vaccination for the federal workforce and federally regulated transportation sectors](#)
- [Mandatory COVID-19 vaccination requirements for federally regulated transportation employees and travellers](#)
- [List of federally regulated industries and workplaces](#)

Contacts

For media enquiries, please contact:

Michelle Johnston

Director of Communications

Office of the Minister of Labour, Seamus O'Regan Jr.

613-298-7386

michelle.a.johnston@labour-travail.gc.ca

Media Relations Office

Employment and Social Development Canada

819-994-5559

media@hrsdc-rhdcc.gc.ca

[Follow us on Twitter](#)

Search for related information by keyword: [HE Health and Safety](#) | [Labour code](#) | [Workplace](#) | [Employment and Social Development Canada](#) | [Canada](#) | [Coronavirus \(COVID-19\)](#) | [Immunization and vaccines](#) | [business](#) | [employers](#) | [general public](#) | [government](#) | [media](#) | [news releases](#) | [Hon. Seamus O'Regan](#)

Date modified:

2021-12-07