

## COVID-19 legislation passed through parliament with urgency

### **The COVID-19 Response (Vaccinations) Legislation Bill was passed by the government under urgency this week, raising serious concerns about the law making process.**

The move has been strongly criticised by a number of legal commentators, and of course the opposition, as it means the law passes through without the usual parliamentary scrutiny. This is particularly concerning given the nature of the legislation. The new law sets up the framework for extending mandatory vaccination for workers beyond those sectors already covered by the COVID-19 Public Health Response (Vaccinations) Order 2021 which includes MIQ and border workers, and the health and disability and education sectors.

#### **The normal process**

Usually, a proposed law (a bill) is introduced to Parliament where it is examined and debated through a comprehensive, and often lengthy, process. Parliament is made up of elected members, or MPs, and so is meant to be representative of, and accountable to, the public.

A bill is introduced the house, has a First Reading, and then goes to a Select Committee. The Select Committee is a small group of MPs who receive feedback from the public and interested groups, and debate the bill. Often submissions to the Select Committee will come not only from members of the public, but large industry groups, for example in the case of employment relations bills, Business New Zealand, and the Unions.

Importantly, the New Zealand Law Society has an arm dedicated to making such submissions. The Law Society's focus is on the implementation and practicalities of the legislation, not the policy behind the bill. This is an important step in the process, as having a

well drafted piece of legislation that works in the real world is crucial to the successful implementation of a policy that parliament wants to introduce.

After the Select Committee, the bill has a Second Reading, and then goes to the Committee of the whole House. All members of Parliament belong to this Committee, and at this stage the MPs have a chance to debate the bill in detail.

The bill then has a final, Third Reading, before being passed into law after receiving Royal Assent from the Governor-General and becoming an Act.

This whole process normally takes months, and sometimes years.

#### **The quick and dirty process**

The COVID-19 Response (Vaccination) Legislation Bill was introduced to Parliament on 23 November 2021 following a press release from Minister Chris Hipkins earlier that morning. It had its First, Second, and Third Reading all on that day. The Select Committee Process was skipped altogether. The Bill received Royal Assent on 25 November 2021, and is now the COVID-19 Response (Vaccinations) Legislation Act 2021.

#### **The concerns**

The obvious concern is whether a piece of legislation that was introduced and passed in a matter of days, and which arguably significantly impacts on the freedoms and rights of individual New Zealanders was subject to enough, or any, Parliamentary scrutiny. The answer is probably no. However, that could be (and is being) justified by the urgent requirement to introduce the traffic light system and the fast moving nature of the COVID-19 pandemic. One must ask however why the bill could not have been drafted and introduced some weeks ago, particularly given the traffic light system was announced back in October 2021.

Of particular concern for us is the lack of ability for the bill to have had input on its practical application and

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drafting. As a result, we have a piece of legislation that contains a number of ambiguous provisions, unclear requirements, and missing information. While lawyers grapple with the interpretation and application, the real issue will be for businesses who have to implement it.

While there is the ability for Parliament to pass law under urgency, and for good reason, it feels like this one should have had more time and more debate. Now to see what the fallout is.

### **Want to know more?**

If you have any questions on your obligations under the traffic light system, or mandatory vaccinations, please contact our specialist [Employment Team](#).