



BC FERRY & MARINE WORKERS' UNION

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Questions for the 'Centralized COVID Vax FAQ'

Introduction

BCFMWU's primary role is to protect members' rights as laid out in the Collective Agreement. In the case of Government health orders and policies related to vaccines, that includes the right to safe and healthy workplaces, it also includes the right to accommodations for legitimate medical and religious exemptions, and of course, includes the right to fair representation from the Union.

Since the beginning of the pandemic, BCFMWU has been pushing BC Ferries to go above and beyond to implement measures to keep Union members safe and the Union leadership and Labour Relations Officers have been representing our members in cases where BC Ferries has failed to meet their obligation to provide a safe workplace.

BC Ferries has notified us of their Policy and its requirement to go above and beyond what is required federally by Transport Canada. Transport Canada's interim order No7 requires a company (authorized Representative) that operates any vessel over a crew compliment of 12 persons, their vaccine Policy must encompass their entire vessel based staff, and anyone who must board a vessel in the course of their duties. The Vaccine Policy must require workers to have one dose by November 15th, 2021 and be fully vaccinated by January 24th, 2022. Interim order No7 does not require shore based employees who do not have to board a vessel to fall under the policy.

BC Ferries has made a policy that requires all workers to be vaccinated. Every member has a different situation. Below are some Frequently Asked Questions and the latest information the Union has to answer some of the questions coming in from members. The Union will regularly update on this page, and also through bulletin update. Please check back on a regular basis for updates as they become available.

This pandemic has been extremely difficult for everyone and the only way we will get through it is through our continued solidarity. Vaccinations, masking up, maintaining ongoing safety protocols, are all a part of our collective responsibility.

The global pandemic related to Covid-19 (the "Covid-19 pandemic") presents a distinct situation for worker safety and the protection of public health. On October 6th, 2021, [Prime Minister Justin Trudeau and Deputy Prime Minister Chrystia Freeland announced](#) that, as of October 30th, 2021, the Government of Canada will require employers in the federally regulated air, rail, and marine transportation sectors to establish vaccination policies for their employees. Transport Canada has issued interim order No 7 which mandates companies who operate passenger ferries with more than a 12-member crew to have a mandatory vaccine policy.

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What is the Union’s role regarding mandatory vaccination imposed on worksites?

The Union’s role is to protect members’ rights as laid out in the Collective Agreement. This includes fighting for workplace safety, as well as accommodations for workers who cannot get vaccinated for reasons protected by the *Human Rights Code*.

What can I do to get vaccinated?

Make an appointment as soon as possible to get vaccinated. Vaccine clinics are being held frequently across the province. Members can take up to 3 hours of paid leave for each dose to be vaccinated against Covid-19.

More information is available here: <https://www2.gov.bc.ca/gov/content/covid-19/vaccine/register>

Can my employer require me to get a vaccine?

An employer does not have the right to make vaccination choices for employees. However, a worker’s decision to not vaccinate can have consequences for their employment status. Existing legal decisions are clear that an employer can make workplace rules about vaccinations and other health measures including masking and rapid testing under its duty to ensure workplace health and safety. This can include imposing consequences on an employee who decides not to get vaccinated.

Employer rules must be reasonable in the circumstances and must allow for accommodation where possible. Generally, it is reasonable that employer health and safety policies will consider alternative measures for

unvaccinated workers, such as temporary reassignments where possible, mandatory masking, or rapid testing.

The Covid-19 pandemic presents a distinct situation on the protection of public health and worker safety. An employer rule that complies with interim Order No 7 is likely to be considered reasonable grounds for that rule. Requiring workers to be vaccinated may be a reasonable requirement in other circumstances, in light of the effectiveness of Covid-19 vaccines and the serious risk that Covid-19 presents to workers and the public.

Does Transport Canada have the authority to require workers to be vaccinated?

As marine transportation safety falls within the federal jurisdiction, Transport Canada has the authority to implement safety rules with which BC Ferries must comply.

On October 30, Transport Canada issued the [Interim Order No. 7 Respecting Passenger Vessel Restrictions Due to the Coronavirus Disease 2019 \(COVID-19\)](#).

On November 1, Transport Canada shared supporting documentation regarding the federal vaccination mandate, including the new: [Ship Safety Bulletin 17/2021 : Measures to Mitigate the Spread of COVID-19 on Canadian Vessels and Foreign Passenger Vessels Operating in Canadian Waters](#) which is explaining the requirements of the **Interim Order no.7**.

The intent of **Interim Order No. 7** and the reporting requirements stated in subsection 10(1), **BC Ferries must complete the [Reporting on the Federal COVID-19 Vaccination Mandate](#) no later than November 15, 2021**

Transport Canada has used its specific regulatory and oversight authorities related to operations of federally regulated air, rail, and marine transportation service providers to ensure that the transportation system and these workplaces are safe through vaccination mandates. Each organization is required to implement a rigorous policy, which must:

- Include a provision for employee attestation/declaration of their vaccination status;
- Include a description of consequences for employees who do not comply or who falsify information; and
- Meet standards consistent with the approach taken by the Government of Canada for the Core Public Administration.

Transport Canada will oversee compliance by means of inspections and enforcement tools such as mandatory reporting. TC gets its authority to make orders from the legislature through an Interim Order pursuant to the *Canada shipping Act*. The government has determined the Covid-19 pandemic is currently a health hazard, and an immediate and significant risk to public health throughout marine transportation. The CSA authorizes Transport Canada to make orders in response to these conditions to federally regulated workplaces.

Do I have the choice to get vaccinated or not?

Yes, but there may be repercussions for your employment status if you are not vaccinated even if your workplace is not subject to Transport Canada's interim order that requires employees to be vaccinated, an Employer may still be able to make workplace rules about vaccinations. The rules must be reasonable in the circumstances and must allow for reasonable accommodation where possible. In light of the effectiveness of Covid-19 vaccines and the serious risk that Covid-19 presents to workers and the public, requiring vaccinations may be considered a reasonable requirement for employment.

Can I request an accommodation on medical or religious or other grounds?

Yes, we can help you with that. TC has the following links below for Medical Exemption, Religious Exemption, and Partially Vaccinated request forms.

- [Partially vaccinated exemption request form](#)
- [Medical exemption request form](#)
- [Religious exemption request form](#)

For members whose primary duties do not require the member to board a vessel, there may be other accommodations possible.

If you feel you have the ground for any exemptions please contact your Shop Steward, Local President, or email COVID19@bcfmwu.com Also visit the union website at <https://www.bcfmwu.com/covid-19/>

Note: The employer's duty to accommodate ends at the point of undue hardship. Examples of undue hardship may be if the accommodation would create health and safety risks for others, or would significantly harm the employer's business such as operating in violation of a public health order. A leave without pay may be considered a reasonable accommodation in certain circumstances. Each case will be different and should be assessed by the employer on the specific facts of that case.

What happens if I am not fully vaccinated by the TC deadline?

The deadline of January 24th, 2022 is for the employer to ensure all ship based members are fully vaccinated. The company's policy confirms if you are not fully vaccinated and require to board a ship you will be placed on unpaid leave. If your duties do not require you to board a ship, please contact your Shop Steward, Local President, COVID19@bcfmwu.com or on the union website at <https://www.bcfmwu.com/covid-19/>

If I don't get vaccinated, can the Employer put me on unpaid leave?

Probably yes. If a member is not vaccinated, the employer will most likely be able to place the member on unpaid leave while Covid -19 continues to be a hazard to public health if:

- a. The workplace is subject to Transport Canada's Interim Order requiring employees to be vaccinated; or,
- b. The workplace is not subject to Transport Canada's interim Order, but the employer has implemented a reasonable policy requiring employees to be vaccinated

If I don't get vaccinated, can the Employer terminate my employment?

Maybe. The law has supported mandatory vaccination policies, such as influenza immunization, as a condition of employment in seniors' health care settings.

Before an employer takes a step that adversely affects a worker, it is reasonable to expect that an employer can show it has explored alternative measures for unvaccinated workers, such as temporary reassignments where possible, mandatory masking, and regular rapid testing.

The Covid-19 pandemic presents a distinct situation for the protection of public health and the safety of workers. In light of the effectiveness of Covid-19 vaccines and the serious risk that the Covid-19 virus presents to workers and the public, requiring vaccinations may be considered a reasonable requirement for employment. Employers are obligated to act in accordance with public health orders that apply to them. Compliance with a Federal order may be considered reasonable grounds to uphold a termination in some cases.

If a worker is terminated or disciplined by the employer for not being vaccinated, or if the employer is not accommodating a worker who has a medical or religious reason for not being vaccinated, they can file a grievance. The grievance will be considered with reference to rights under the relevant Collective Agreement, and the specific circumstances of the termination.

What can I do if I am put on unpaid Leave?

One option to avoid this possible consequence is getting vaccinated. Vaccine clinics are being held across the province, and further information is available online at: <https://www2.gov.bc.ca/gov/content/covid-19/vaccine/register>

BCFS has said they will reassess at anytime during the leave if a member's vaccination status has changed, or else they will reassess at 60 days.

Members have the right to file a grievance. The grievance will be considered with reference to the rights under the Collective Agreement, and the specific circumstances of the termination. Contact the shop steward or local President in your area for assistance in filing a grievance.

If the employer puts me on leave without pay can I use my credits?

Your Credits are your time, and we as a union will maintain a fight for that. Initial discussions with the company it appears there won't be pushback from the company on this view, however we have yet to see what will happen come the 16th of November.

I have one vaccination and I can't get a second before November 15th what will happen to me?

If you are single dose vaccinated you can continue to work within the Company's policy until January 24th, 2022 for shipboard staff. You will be required to be tested. For those in larger locations BCFS has said it will be administering test kits to Employee Relations offices and for smaller or remote locations they will be sent to the location or ship. If an employee does have to get a privately administered test BCFS has said they would reimburse for the cost of the test up until January 24th, 2022.

Will I be eligible for EI if I am put on unpaid leave?

Below is a Copy and Paste from the EI website – further information can be found at [EI Regular Benefits - Do you qualify - Canada.ca](#)

In most cases, if you lose or quit your job because you didn't comply with your employer's mandatory COVID-19 vaccination policy, you won't be eligible for EI regular benefits. To determine if you're eligible, we may contact you to obtain information such as:

- *if your employer clearly communicated a mandatory COVID-19 vaccination policy to you*
- *if you were informed that not complying with the policy would result in you losing your employment*
- *if applying the policy to you was reasonable within your workplace context*
- *if you have a valid reason for not complying with the policy and your employer didn't provide you an exemption*

We'll use the facts provided by you and your employer to determine if you're entitled to benefits.

What happens if I am unable to work after receiving the vaccine?

WorkSafeBC website <https://www.worksafebc.com/en/covid-19/vaccination-and-the-workplace>

Can a worker file a claim for an adverse reaction to a work-related COVID-19 vaccination?

Claims-related information is on the WorkSafe BC website. From their FAQ:

If a worker has an adverse reaction to a work-related COVID-19 vaccination, the information below will help you determine if a claim should be submitted.

If a worker thinks they have a work-related case of COVID-19, please see our COVID-19 claims [information for workers](#) and [information for employers](#) to learn more about submitting a claim.

If you disagree with a decision made by WorkSafeBC, you can request a review from WorkSafeBC's Review Division. At any time, the Workers' Advisers Office (604.335.5931 or toll free at 1.800.663.4261) is also available to provide assistance to workers who disagree with COVID-19 related claim decisions made by WorkSafeBC, and COVID-19 related prohibited action matters. Learn more about [submitting and managing reviews during COVID-19](#).

This information is current to **November 10th, 2021.**