

## Clause 9 and dealing with Worksafe

Cause 9 is of great importance to the PCBU ( Person in charge of a business or undertaking ) or employer as they are usually known. These days there is a great push for the PCBU to have their employees or workers vaxed as a condition of coming into the workplace.

The Clause 9 I'm talking about is in the vaccination Order itself.

Note Sub clause 5 (d) of clause 9 :

(5)

In this clause, **relevant chief executive**,—

(a)

in relation to a worker at a managed isolation facility or a managed quarantine facility, means the chief executive of the responsible agency:

(b)

in relation to a worker who is not a service worker and who works at an affected port or on board an affected ship, means the Director of Maritime New Zealand:

(c)

in relation to a worker who is not a service worker and who works at an affected airport or on board an affected aircraft, means the Director of Civil Aviation:

(ca)

in relation to a staff member of a corrections prison, means the chief executive of the Department of Corrections:

(d)

**in relation to any other worker, means the chief executive of the relevant PCBU.**

**This allows a CEO to choose to have a worker or an 'affected person' do 'certain' work.. And there are no conditions on that at all. So the PCBU or the employer does not have to write off to any ministry of such and such and so and so for permission, they just decide that that's the case and they go ahead.**

And now when I talk about writing off to Ministries, that is what has to occur if you are if you are run by a ministry. So for example, if your business is run by the Ministry of Health or the Ministry of Transport or ... well there is not a Ministry of Marine, but there is a CEO of Maritime New Zealand that has to be applied to for a clause 9 exemption for having unvaccinated workers on your worksite....

So, yeah, so all of you people, good people out there in the private sector would fall into this position.of being described in **Clause 9 subsection 5 (d)**

If you are a member of a club and your committee, for example, is forbidding you to come onto the golf course or to the tennis courts or something- the clubhouse is more likely to be where you are forbidden to enter.... They are exercising the powers of a PCBU, over the space, over the workspace space. It doesn't even have to be a workspace for profit. So.

So the same conditions that a PCBU and the same duties that are PCBU is under, under the Health and Safety at Work Act apply to PCBU whether they are committee members who've made that sort of decision or they are, or sometimes it's just one person the CEO of a company might make that decision. The HR person will possibly or the operations manager will convey that to the worker. So all of those three people in that case become PCBU.

Now. If it's a really large company that goes right up to, you know, the head of Microsoft, for example, say you work for Microsoft, then your ultimate PCBU would be Bill Gates. So that's how extensive this responsibility goes, goes up to. You can put as many PCBUs on your list to sue as you want!

Now, the other concern that people have been talking to me about today, I've had a number of phone calls about this; is the fact that they are afraid of this so-called \$15000 fine that if they have a worker or in the workplace or they allow a member into the club rooms who is not vaccinated, that they might incur the wrath of WorkSafe.

Now, WorkSafe administers the Health and Safety at Work Act. They haven't been telling anybody about the responsibilities of a PCBU. They've been acting more like, I don't know what they're acting like because under the Health and Safety at Work Act, you're not allowed to touch a worker, you're not allowed to administer anything to them or make them be tested or even masked. ( see section 172 (b) of the Act )

Okay, those are things that could be sued upon as illegal activities under the Health and Safety at Work Act, and they would be sued at the District Court level in the first place.

So the WorkSafe people have been telling outright lies to people and getting them into all sorts of trouble in the long run because perhaps they thought they'd never be discovered as carrying out the Party Line. But that's what is exactly what has happened. So what I'm saying to PCBU or employer ( about WorkSafe ) is; if they turn up or they send you an email and say, Well, we're giving you a warning or stop or we'll give you a \$15000 fine, you need to get that person's name.

You need to email or message them back or whatever the communication is and say "Thank you for your communication. I have your name- now. I intend to defend myself against that fine, " You have 28 days before you even have to start thinking about it. In the meantime, you will get in touch with your lawyer and you will ask them to initiate a case in the court. You can sue for damages- for business damages against WorkSafe because they have been telling you not just lies about the Health and Safety at Work Act, but also about the Employment Relations Act. They have induced you to break your contracts with your employees.

## Definitions

So there are employees under the Employment Relations Act and there are workers under the Health and Safety at Work Act. But they are the same people, just the same as you are a PCBU -a person in charge of a business or undertaking and or an employer under the Employment Relations Act 2000. So you can get done, whichever way.

I think that's all I'd talk about at the moment. This is just a short; a short explanation of clause 9 and how you can actually set yourself free and what you can do to WorkSafe if they show their heads above the parapet. Okay? , so I hope that's been useful to you.