



## COVID-19 Public Health Response (Vaccinations) Amendment Order 2021

This order is made by the Minister for COVID-19 Response under sections 11 and 15(1) of the COVID-19 Public Health Response Act 2020 in accordance with section 9 of that Act.

### Contents

		Page
1	Title	2
2	Commencement	2
3	Principal order	2
4	Clause 3 amended (Purpose)	2
5	Clause 4 amended (Interpretation)	2
6	Clause 7 amended (Duty of affected person not to carry out work unless vaccinated)	4
7	New clause 7A inserted (Exemption from duty under clause 7)	5
	7A Exemption from duty under clause 7	5
8	Clause 8 amended (Duties of relevant PCBUs in relation to vaccinations)	5
9	Clause 9 amended (Exceptions)	5
10	Clause 10 amended (Duties of relevant PCBUs regarding vaccination status)	6
11	Clauses 11 and 12 replaced	6
	11 Duties of affected person regarding vaccination records	6
	12 Duties regarding vaccination register	7
12	New clause 12A and cross-heading inserted	7
	<i>Exemptions</i>	
	12A Power of Minister to grant exemptions	7
13	Clause 13 amended (Infringement offence)	8
14	Schedule 1 amended	8
15	Schedule 2 replaced	8
	<b>Schedule 1</b>	9
	<b>New Part 2 inserted into Schedule 1</b>	
	<b>Schedule 2</b>	10
	<b>Schedule 2 replaced</b>	

## Order

### 1 Title

This order is the COVID-19 Public Health Response (Vaccinations) Amendment Order 2021.

### 2 Commencement

- (1) Clause 12 comes into force on 12 August 2021.
- (2) The rest of this order comes into force at 11.59 pm on 14 July 2021.

### 3 Principal order

This order amends the COVID-19 Public Health Response (Vaccinations) Order 2021.

### 4 Clause 3 amended (Purpose)

In clause 3, replace “work at certain places” with “certain work”.

### 5 Clause 4 amended (Interpretation)

- (1) In clause 4, insert in their appropriate alphabetical order:

**affected item** means—

- (a) an item (apart from cargo or freight) removed for cleaning, disposal, or reuse from an affected ship or a passenger area of an affected aircraft:
- (b) an item removed for cleaning, disposal, or reuse from a managed quarantine facility or a managed isolation facility

**aircraft** has the same meaning as in section 2(1) of the Civil Aviation Act 1990

**aircrew member** means any of the following persons:

- (a) cabin crew who—
  - (i) are ordinarily resident in New Zealand; and
  - (ii) work on an international flight (other than a QFT flight) on or after 15 July 2021;
- (b) other persons who—
  - (i) are ordinarily resident in New Zealand; and
  - (ii) are identified as crew members on a crew manifest for an affected aircraft that has travelled internationally on or after 15 July 2021; and
  - (iii) have an international layover (whether airside or landside) during that travel:
- (c) cabin crew who, on or after 15 July 2021, travel on a domestic flight within New Zealand that carries international arriving or international

transiting passengers (other than QFT persons) who have not yet completed isolation or quarantine at a managed isolation or quarantine facility

**certain work**, in relation to an affected person, means work that the affected person carries out (whether paid or unpaid) in respect of a group specified in Schedule 2

**crew** has the same meaning as in clause 4 of the COVID-19 Public Health Response (Maritime Border) Order (No 2) 2020

**Defence Force** has the same meaning as in section 2(1) of the Defence Act 1990

**enclosed space**,—

- (a) in relation to an aircraft, means an enclosed or a partially enclosed space on board the aircraft in which physical distancing from the aircrew or international arriving or international transiting passengers is not practicable;
- (b) in relation to an affected ship, means an enclosed or partially enclosed space on board the ship in which physical distancing from the ship's crew is not practicable

**excluded airport person**, in relation to a group, means a person who—

- (a) works at an affected airport and only interacts with international departing passengers (other than international transiting passengers); or
- (b) works on the airside of an affected airport only in areas that are inaccessible to international arriving or international transiting passengers, and does not interact with international arriving or international transiting passengers on the landside of the affected airport

**excluded port person**, in relation to a group, means a person who is in isolation or quarantine on a ship under a COVID-19 order

**have contact with**, in relation to persons who belong to different groups, means—

- (a) having face-to-face contact within 2 metres of each other for 15 minutes or more; or
- (b) being in a confined space within 2 metres of each other for 15 minutes or more

**health practitioner** has the same meaning as in section 5(1) of the Health Practitioners Competence Assurance Act 2003

**landside**, in relation to an affected airport, means any part of the affected airport that is not airside

**physical distancing**, in relation to other persons, means remaining at least 2 metres away from those persons

**register** means the register that the Director-General must ensure is kept, maintained, and monitored under clause 12

**relevant aircrew member** means a person—

- (a) who is in isolation following a flight on which the person arrived in New Zealand; and
- (b) who was—
  - (i) on the crew manifest for the flight; or
  - (ii) on the flight at the direction of an airline for which the person carries out work as a pilot, co-pilot, or flight attendant

**service worker** means a person who carries out work for or on behalf of—

- (a) the State services;
- (b) the Defence Force

**ship** has the same meaning as in section 2(1) of the Maritime Transport Act 1994

**State services**—

- (a) means all instruments of the Crown in respect of the Executive Government of New Zealand, whether public service agencies, bodies corporate, agencies, or other instruments; and
- (b) includes Crown entities; but
- (c) excludes those instruments specified in paragraph (c) or (e) of the definition of State services in section 5 of the Public Service Act 2020

**workers who handle affected items** means persons—

- (a) who belong to a group specified in Part 6 of Schedule 2; and
- (b) who touch affected items while carrying out certain work for a relevant PCBU that is contracted to provide regular services for a managed quarantine facility, a managed isolation facility, an affected aircraft, or an affected ship (for example, cleaning, laundering, or refuse disposal services)

- (2) In clause 4, replace the definition of **affected person** with:

**affected person** means a person who belongs to a group (or whose work would cause them to belong to a group)

- (3) In clause 4, revoke the definition of **government official**.
- (4) In clause 4, revoke the definition of **place**.
- (5) In clause 4, definition of **relevant PCBU**, replace “work” with “certain work”.

**6 Clause 7 amended (Duty of affected person not to carry out work unless vaccinated)**

- (1) In the heading to clause 7, replace “work” with “certain work”.

- (2) In clause 7, replace “work or otherwise conduct an activity at a place” with “certain work”.

**7 New clause 7A inserted (Exemption from duty under clause 7)**

After clause 7, insert:

**7A Exemption from duty under clause 7**

Despite clause 7, an affected person who handles affected items may carry out certain work without being vaccinated if—

- (a) the affected person has particular physical or other needs a suitably qualified health practitioner (in the course of examining the person) determines would make it inappropriate for the person to be vaccinated; and
- (b) the relevant PCBU has provided the register with written confirmation that a suitably qualified health practitioner—
  - (i) has examined the affected person; and
  - (ii) has determined that vaccinating the affected person would be inappropriate.

**8 Clause 8 amended (Duties of relevant PCBUs in relation to vaccinations)**

In clause 8(1), replace “work or otherwise conduct an activity at a place” with “certain work”.

**9 Clause 9 amended (Exceptions)**

- (1) In clause 9(2), replace “enter and carry out work at a place” with “carry out certain work”.
- (2) In clause 9(2)(b), replace “place from ceasing operations” with “ceasing of operations”.
- (3) In clause 9(3), replace “enter a place” with “carry out certain work”.
- (4) Replace 9(4) with:
  - (4) A person may enter any place without approval if they need to enter to preserve or protect a person’s life, health, or safety in an emergency.

(5) Replace clause 9(5) with:

- (5) In this clause, **chief executive**,—
  - (a) in relation to a worker at a managed isolation facility or a managed quarantine facility, means the chief executive of the Ministry of Business, Innovation, and Employment;
  - (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;
- (d) in relation to any other worker, means the chief executive of the relevant PCBU.

**10 Clause 10 amended (Duties of relevant PCBUs regarding vaccination status)**

- (1) In the heading to clause 10, replace “status” with “records”.
- (2) Replace clause 10(1) with:
  - (1) The relevant PCBU—
    - (a) must, before a person the relevant PCBU employs or engages actually carries out certain work, update the register to provide the Ministry of Health with confirmation that the person is an affected person; and
    - (b) must—
      - (i) ask the Ministry of Health to confirm whether an affected person the relevant PCBU employs or has engaged to carry out certain work is vaccinated; or
      - (ii) access the register to confirm whether the person is vaccinated.
- (3) In clause 10(2)(b), replace “status” with “record”.
- (4) After clause 10(3), insert:
  - (4) The relevant PCBU must ensure that the register has, in respect of an affected person the relevant PCBU employs or has engaged to carry out certain work, the following information:
    - (a) the affected person’s full legal name and date of birth;
    - (b) a telephone number by which the affected person may be reached.
- (5) The affected person must—
  - (a) provide the relevant PCBU with (or give the relevant PCBU access to) the information specified in subclause (4) as soon as practicable; and
  - (b) ensure that the information is updated as soon as practicable after it changes.

**11 Clauses 11 and 12 replaced**

Replace clauses 11 and 12 with:

**11 Duties of affected person regarding vaccination records**

An affected person who carries out certain work for a relevant PCBU—

- (a) must allow the relevant PCBU to access any COVID-19 vaccination record that the Ministry of Health may have for the affected person:

- (b) must, as soon as practicable, notify the relevant PCBU whether the affected person has been vaccinated, including (but not limited to)—
  - (i) the dates on which they have received any injections of the Pfizer/BioNTech COVID-19 vaccine:
  - (ii) any exemption under clause 7A that applies to the affected person:
- (c) must, if an exemption under clause 7A applies to the affected person, provide written confirmation of the exemption to—
  - (i) the relevant PCBU:
  - (ii) an enforcement officer on request.

## **12 Duties regarding vaccination register**

- (1) The Director-General must ensure that a register that records COVID-19 vaccinations of affected persons is kept, maintained, and monitored.
- (2) The Ministry of Health must provide a relevant PCBU with access to the register in respect of an affected person if the relevant PCBU has provided written confirmation that the relevant PCBU employs or has engaged the affected person to carry out certain work.
- (3) For the purposes of enforcing this order, the Director-General must enable the provision of any relevant COVID-19 vaccination records that the Ministry of Health keeps to enforcement officers who are investigating non-compliance with this order.
- (4) A relevant PCBU must make the records it makes under this order available as soon as practicable to an enforcement officer who requests access to the record for the purposes of investigation and enforcement.

## **12 New clause 12A and cross-heading inserted**

After clause 12, insert:

### *Exemptions*

#### **12A Power of Minister to grant exemptions**

- (1) A relevant PCBU may, by notice in writing to the Minister, apply for an exemption for a person specified in the application from any other provision of this order.
- (2) The relevant PCBU must, in writing, inform the person specified in the application of the application.
- (3) If the Minister receives an application, the Minister may ask the relevant PCBU to provide any evidence or other information that the Minister reasonably requires for the purposes of deciding whether to grant the exemption.

- (4) The Minister may exempt the person specified in the application from any provision of this order for a specified period if satisfied, on the basis of the evidence or other information provided, that—
  - (a) the exemption is necessary or desirable—
    - (i) to promote the purposes of the Act; and
    - (ii) to prevent significant disruption to essential supply chains; and
  - (b) the extent of the exemption is not broader than is reasonably necessary to address the matters that gave rise to the exemption.
- (5) Before granting an exemption, the Minister must take into account—
  - (a) the potential for significant supply chain disruption if the work carried out by a particular person does not occur, including the extent of the risk to the public interest if the work does not occur; and
  - (b) the extent to which the work is necessary, including whether it could reasonably be—
    - (i) delayed to facilitate the vaccination of the persons needed to carry out work; or
    - (ii) performed by other persons who have been vaccinated; and
  - (c) the public health risk associated with the work.
- (6) The Minister may impose conditions on the exemption as the Minister considers necessary.
- (7) The Minister must, in writing, inform the relevant PCBU and the person specified in the application of the outcome of the application and, if the exemption is granted, when the exemption expires.
- (8) If an exemption is granted under this clause, the relevant PCBU must provide the person exempted with written notice of the exemption that states when the exemption expires.

Compare: LI 2021/6 cl 46

**13 Clause 13 amended (Infringement offence)**

In clause 13, replace “clause 7, 8, 10, or 11” with “clause 7, 8, 10, 11, or 12(4)”.

**14 Schedule 1 amended**

In Schedule 1,—

- (a) insert the Part set out in Schedule 1 of this order as the last Part; and
- (b) make all necessary consequential amendments.

**15 Schedule 2 replaced**

Replace Schedule 2 with the Schedule 2 set out in Schedule 2 of this order.



**Schedule 1**  
**New Part 2 inserted into Schedule 1**

cl 14

**Part 2**  
**Provisions relating to COVID-19 Public Health Response**  
**(Vaccinations) Amendment Order 2021**

**3 Transitional provision for affected persons on or before commencement**

- (1) If an affected person who belongs to a group specified in Schedule 2 (as replaced by the COVID-19 Public Health Response (Vaccinations) Amendment Order 2021) is not vaccinated before 11.59 pm on 14 July 2021, the affected person must,—
- (a) if the person is a service worker,—
    - (i) have their first injection of the Pfizer/BioNTech COVID-19 vaccine before the close of 26 August 2021; and
    - (ii) have their second injection of the Pfizer/BioNTech COVID-19 vaccine no later than 35 days after their first injection:
  - (b) if the person is not a service worker,—
    - (i) have their first injection of the Pfizer/BioNTech COVID-19 vaccine before the close of 30 September 2021; and
    - (ii) have their second injection of the Pfizer/BioNTech COVID-19 vaccine no later than 35 days after their first injection.
- (2) However, if clause 1 of this schedule applied to the affected person before 11.59 pm on 14 July 2021, the requirements of that clause continue to apply as if the COVID-19 Public Health Response (Vaccinations) Amendment Order 2021 had not been made.

**4 Transitional provision for persons who become affected persons after commencement**

- (1) This clause applies to a person—
- (a) who is a service worker and who becomes an affected person on or after 26 August 2021:
  - (b) who is not a service worker and who becomes an affected person on or after 30 September 2021.
- (2) The person must, until the date that is 35 days after the date on which they become an affected person, be treated as being vaccinated if they have had 1 injection of the Pfizer/BioNTech COVID-19 vaccine before becoming an affected person.

## Schedule 2

### Schedule 2 replaced

cl 15

## Schedule 2

### Groups of affected persons

cl 4

Item	Group
	<i>Part 1: Groups in relation to managed quarantine facilities</i>
1.1	Workers at managed quarantine facilities
1.2	Workers who transport to or from managed quarantine facilities persons required to be in isolation or quarantine under COVID-19 order
	<i>Part 2: Groups in relation to managed isolation facilities</i>
2.1	Workers at managed isolation facilities
2.2	Workers who transport to or from managed isolation facilities persons required to be in isolation or quarantine under COVID-19 order
	<i>Part 3: Groups in relation to affected airports</i>
3.1	All airside workers (other than excluded airport persons)
3.2	All landside workers who interact with international arriving or international transiting passengers (other than those arriving on QFT flights)
3.3	Baggage handlers who work at affected airports and who handle baggage from affected aircraft
3.4	Persons (other than excluded airport persons) who enter enclosed space on board affected aircraft
	<i>Part 4: Groups in relation to affected ports</i>
4.1	All workers (other than excluded port persons) who board affected ships
4.2	Pilots (other than excluded port persons) carrying out work on or around affected ships
4.3	Stevedores (other than excluded port persons) carrying out work on or around affected ships
4.4	All workers who transport persons (other than crew) to or from affected ships
4.5	All other port workers (other than excluded port persons) who interact with persons required to be in isolation or quarantine under COVID-19 order
	<i>Part 5: Groups in relation to aircraft</i>
5.1	Aircrew members
5.2	Workers at accommodation services (other than private dwellinghouses) where relevant aircrew members are self-isolating
	<i>Part 6: Groups in relation to affected items</i>
6.1	Workers who handle affected items within 72 hours of removal of items from managed quarantine facilities and who have contact with members of groups specified in Part 1 or 2 while both are working
6.2	Workers who handle affected items within 72 hours of removal of items from managed isolation facilities and who have contact with members of groups specified in Part 1 or 2 while both are working
6.3	Workers who handle affected items within 24 hours of removal of items from affected aircraft and who have contact with members of groups specified in Part 3 or 5 while both are working

Item	Group
6.4	Workers who handle affected items within 72 hours of removal of items from affected ships and who have contact with members of groups specified in Part 4 while both are working

Dated at Wellington this 8th day of July 2021.

Hon Chris Hipkins,  
Minister for COVID-19 Response.

### Explanatory note

*This note is not part of the order, but is intended to indicate its general effect.*

This order, which comes into force at 11.59 pm on 14 July 2021 (apart from clause 12, which comes into force on 12 August 2021), amends the COVID-19 Public Health Response (Vaccinations) Order 2021 (the **principal order**) by extending the requirement that certain work be carried out only by affected persons who are vaccinated to additional groups of affected persons. The order creates duties in this regard for those persons and their relevant PCBUs. It also—

- provides exemptions for affected persons who do not interact with aircrew members, crew of affected ships, or international transiting or arriving passengers, or who have particular physical or other needs that make vaccination inappropriate; and
- refines clause 9 of the principal order regarding who may grant exceptions and under what circumstances they may be granted; and
- replaces clauses 11 and 12, which set out duties regarding the COVID-19 vaccination records of affected persons; and
- adds *new clause 12A*, which sets out the grounds on which the Minister may grant exemptions.

Schedule 1 of this order adds transitional provisions to the principal order. They provide that affected persons who are working as members of groups added to the principal order at 11.59 pm on 14 July 2021 are required to have received their first vaccination by 26 August 2021 if they are a service worker or by 30 September 2021 if they are a worker other than a service worker.

Service workers who become affected persons after 26 August 2021 must have received their first injection of the Pfizer/BioNTech COVID-19 vaccine before they perform work as a member of an affected group, and have 35 days to receive their second injection.

Other persons who become affected persons after 30 September 2021 must have received their first injection before they perform work as a member of an affected group, and have 35 days to receive their second injection.

Workers required to be vaccinated before 15 July 2021 continue to be required to be vaccinated by the dates specified in the principal order as if this order was not made.

A breach of the requirements is an infringement offence under section 26(3) of the COVID-19 Public Health Response Act 2020 (the **Act**) for which a person or a relevant PCBU is liable to an infringement fee of \$300 or a fine not exceeding \$1,000.

This order must be approved by a resolution of the House of Representatives before the expiry of the period described in section 16(2) of the Act. If that does not happen, the order is revoked on the expiry of that period.

Issued under the authority of the Legislation Act 2012.  
Date of notification in *Gazette*: 9 July 2021.  
This order is administered by the Ministry of Health.