

Version
as at 3 March 2022



COVID-19 Public Health Response (Specified Work Vaccinations) Order 2021

(SL 2021/415)

COVID-19 Public Health Response (Specified Work Vaccinations) Order 2021: revoked, on 3 March 2022, by section 16(1) of the COVID-19 Public Health Response Act 2020 (2020 No 12).

This order is made by the Minister for Workplace Relations and Safety under section 11AB of the COVID-19 Public Health Response Act 2020 in accordance with section 11AA of that Act.

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This order is administered by the Ministry of Business, Innovation, and Employment.

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Order

1 Title

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

2 Commencement

This order comes into force at 11.59 pm on 15 December 2021.

3 Purpose

The purpose of this order is to—

- (a) avoid, mitigate, or remedy the actual or potential adverse effects of the COVID-19 outbreak (whether direct or indirect); and
- (b) ensure continuity of services that are essential for public safety, national defence, or crisis response; and
- (c) maintain trust in public services.

Clause 3: replaced, at 11.59 pm on 14 February 2022, by clause 4 of the COVID-19 Public Health Response (Specified Work Vaccinations) Amendment Order 2022 (SL 2022/14).

4 Interpretation

In this order, unless the context otherwise requires,—

Act means the COVID-19 Public Health Response Act 2020

authorised officer has the same meaning as in section 4 of the Policing Act 2008

constable has the same meaning as in section 4 of the Policing Act 2008

Defence Force worker means—

- (a) a member of the Defence Force (as defined in section 2(1) of the Defence Act 1990); and
- (b) any other worker employed or engaged by the Defence Force

medical practitioner means a health practitioner who—

- (a) is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Compe-

tence Assurance Act 2003 as a practitioner of the profession of medicine; and

- (b) holds a current practising certificate

nurse practitioner means a health practitioner who—

- (a) is, or is deemed to be, registered with the Nursing Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of nursing and whose scope of practice permits the performance of nurse practitioner functions; and

- (b) holds a current practising certificate

Police recruit means a Police employee (as defined in section 4 of the Policing Act 2008) undergoing recruit training for the purposes of attaining the necessary training to hold the office of constable.

5 Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1 have effect according to their terms.

6 Application of order

This order applies to the whole of New Zealand.

Specified work

7 Classes of specified work

- (1) The classes of work specified in Schedule 2 are specified work.
- (2) However, the following work is not specified work:
 - (a) any work that belongs to a class specified in Schedule 2 carried out by an affected worker who is not vaccinated that the relevant chief executive of the PCBU is satisfied—
 - (i) is unanticipated, necessary, and time-critical and cannot be carried out by a person who is vaccinated; and
 - (ii) must be carried out to prevent the ceasing of operations:
 - (b) any work that belongs to a class specified in Schedule 2 carried out by an affected worker who is not vaccinated that is necessary in order to preserve or protect a person's life, health, or safety in an emergency.
- (3) In subclause (2)(a), **relevant chief executive of the PCBU** means,—
 - (a) in relation to work for the New Zealand Police, the Commissioner of Police:
 - (b) in relation to work for the Defence Force, the Chief of Defence Force.

Clause 7(2): inserted, at 11.59 pm on 24 December 2021, by clause 4 of the COVID-19 Public Health Response (Specified Work Vaccinations) Amendment Order 2021 (SL 2021/439).

Clause 7(3): inserted, at 11.59 pm on 24 December 2021, by clause 4 of the COVID-19 Public Health Response (Specified Work Vaccinations) Amendment Order 2021 (SL 2021/439).

Authorisations and exemptions

8 Relevant chief executive of PCBU may authorise affected worker not vaccinated to carry out specified work

[Revoked]

Clause 8: revoked, at 11.59 pm on 24 December 2021, by clause 5 of the COVID-19 Public Health Response (Specified Work Vaccinations) Amendment Order 2021 (SL 2021/439).

9 Director-General may authorise affected worker not fully vaccinated to carry out specified work

- (1) The Director-General may, on the application of a PCBU, authorise an affected worker of the PCBU who is not fully vaccinated to carry out specified work.
- (2) The Director-General may grant an authorisation in respect of an affected worker only if—
 - (a) the affected worker has received at least 1 dose of a COVID-19 vaccine (not being the Janssen vaccine); and
 - (b) the Director-General is satisfied, taking into account the affected work to be carried out by the affected worker, that the receipt of that vaccine adequately prevents, or limits the risk of,—
 - (i) the outbreak of COVID-19; or
 - (ii) the spread of COVID-19.
- (3) The Director-General may impose 1 or more conditions on an authorisation.
- (4) The Director-General must give the PCBU written notice of the outcome of an application and, if authorisation is granted, any conditions imposed on the authorisation.
- (5) The PCBU must give a copy of a written notice received under subclause (4) to the affected worker who is the subject of the application.

Compare: LI 2021/94 cl 9A

10 Director-General may grant COVID-19 vaccination exemption

- (1) A suitably qualified medical practitioner or nurse practitioner (the **applicant**) may apply to the Director-General for a COVID-19 vaccination exemption on behalf of an affected worker who is not vaccinated.
- (2) An application may be made only on the ground that the affected worker meets the specified COVID-19 vaccination exemption criteria.
- (3) The affected worker must—

- (a) certify that the information that they have provided to the applicant for the purposes of making the application is accurate; and
 - (b) sign the application.
- (4) An application must be accompanied by a certificate signed by the applicant certifying that they—
- (a) have reviewed the affected worker’s medical history and assessed the affected worker’s state of health; and
 - (b) have reasonable grounds for believing that the affected worker meets the specified COVID-19 vaccination exemption criteria.
- (5) The applicant must state their grounds for believing that the affected worker meets the specified COVID-19 vaccination exemption criteria.
- (6) On receiving an application, the Director-General may ask the applicant or affected worker to provide any evidence or further information that the Director-General reasonably requires for the purposes of deciding whether to grant the application.
- (7) The Director-General may grant the application if satisfied, on the basis of the evidence or other information provided, that the affected worker meets the specified COVID-19 vaccination exemption criteria.
- (8) A COVID-19 vaccination exemption is valid for the period that the Director-General determines, which must be no longer than 6 months.
- (9) The Director-General must notify the applicant and the affected worker of the outcome of the application.
- (10) If the application is granted, the Director-General must provide a copy of the COVID-19 vaccination exemption in written or electronic form to the applicant and affected worker that states the date on which the exemption expires.
- (11) At any time before or after a COVID-19 vaccination exemption expires, a new application for a further exemption may be made under this clause by a medical practitioner or a nurse practitioner on behalf of the affected worker in respect of whom the exemption was granted.

Compare: LI 2021/94 cl 9B

11 Power of Minister to exempt specified work

- (1) A PCBU may, by notice in writing, apply to the Minister for Workplace Relations and Safety (the **Minister**), for an exemption in relation to work that—
- (a) belongs to a class of work specified in Schedule 2; and
 - (b) is carried out by an affected worker who is not vaccinated and who is specified in the application (a **specified worker**).
- (2) The PCBU must, in writing, inform the specified worker of the application.
- (3) If the Minister receives an application, the Minister may ask the PCBU to provide any evidence or other information that may be reasonably required for the

- purposes of deciding whether to exempt the work carried out by the specified worker.
- (4) The Minister may grant the exemption if the Minister is satisfied, on the basis of the evidence or other information provided by the PCBU, that—
- (a) the exemption is necessary or desirable—
 - (i) to promote the purpose of the Act; and
 - (ii) to prevent significant disruption to—
 - (A) the essential operations of the New Zealand Police, in the case of an application to exempt work carried out by a specified worker who belongs to a class specified in Part 1 of Schedule 2:
 - (B) the essential operations of the Defence Force, in the case of an application to exempt work carried out by a specified worker who belongs to a class specified in Part 2 of Schedule 2; 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 the extent to which the work carried out by the specified worker is necessary, including—
- (a) whether the work could reasonably be delayed to facilitate vaccination of the specified worker; and
 - (b) whether the work could reasonably be performed by any other person who is vaccinated; and
 - (c) the public health risk associated with the work carried out by the specified worker.
- (6) The Minister may impose conditions on the exemption as the Minister considers necessary.
- (7) The Minister must, in writing, inform the PCBU and the specified worker 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 PCBU must provide the specified worker with a copy of the exemption that states when the exemption expires.

Clause 11: replaced, at 11.59 pm on 24 December 2021, by clause 6 of the COVID-19 Public Health Response (Specified Work Vaccinations) Amendment Order 2021 (SL 2021/439).

Vaccination records

12 Requirements relating to vaccination records

- (1) A vaccination record kept under section 17B of the Act must contain the following information:

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- (a) confirmation that the PCBU has verified a valid CVC issued to the affected worker; or
 - (b) for an affected worker who is vaccinated, the name of the COVID-19 vaccine (or vaccines) the affected worker has received and the date (or dates) on which they received a dose of the vaccine (or vaccines); or
 - (c) for an affected worker who is not vaccinated in reliance on an authorisation or exemption granted under this order or clause 6 of the COVID-19 Public Health Response (COVID-19 Vaccination Certificate) Order 2021,—
 - (i) confirmation of that fact; and
 - (ii) a copy of the authorisation or exemption.
- (2) The record must be in writing or kept in a form or in a manner that allows the information in the record to be easily accessed and converted into written form.
 - (3) In subclause (1)(a), **valid CVC** has the same meaning as in clause 5(1) of the COVID-19 Public Health Response (Protection Framework) Order 2021.

Schedule 1

Transitional, savings, and related provisions

cl 5

Part 1

Provisions relating to this order as made

1 Transitional provision for affected workers at commencement

- (1) If an affected worker who carries out work that belongs to a class specified in Part 1 or 2 of Schedule 2 is not vaccinated as at commencement, the affected worker must be treated as vaccinated if they—
 - (a) have their first dose of a COVID-19 vaccine before the close of 16 January 2022; and
 - (b) have their second dose of a COVID-19 vaccine before the close of 28 February 2022.
- (2) If an affected worker who carries out work that belongs to a class specified in Part 1 or 2 of Schedule 2 has not received their first dose of a COVID-19 vaccine before the close of 16 January 2022, the affected worker must be treated as vaccinated from the date on which they have their first dose of a COVID-19 vaccine until the close of 28 February 2022.
- (3) In this clause,—

commencement means 11.59 pm on 15 December 2021

COVID-19 vaccine has the same meaning as in clause 4 of the COVID-19 Public Health Response (Vaccinations) Order 2021.

2 Relationship with COVID-19 Public Health Response (Vaccinations) Order 2021

- (1) This clause applies if a person is both—
 - (a) an affected worker who carries out work that belongs to a class specified in Part 1 or 2 of Schedule 2 of this order; and
 - (b) an affected person who belongs to a group specified in any of Parts 7 to 9 of Schedule 2 of the COVID-19 Public Health Response (Vaccinations) Order 2021.
- (2) The requirements set out in this order prevail over any corresponding requirements set out in the COVID-19 Public Health Response (Vaccinations) Order 2021 that apply to, or in respect of, the person.

Schedule 2 Classes of specified work

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Item	Class
	<i>Part 1: Work for New Zealand Police</i>
1.1	Work carried out by constables
1.2	Work carried out by Police recruits
1.3	Work carried out by authorised officers
	<i>Part 2: Work for Defence Force</i>
2.1	Work carried out by Defence Force workers

Dated at Wellington this 13th day of December 2021.

Hon Michael Wood,
Minister for Workplace Relations and Safety.

Issued under the authority of the Legislation Act 2019.
Date of notification in *Gazette*: 13 December 2021.

Notes

1 *General*

This is a consolidation of the COVID-19 Public Health Response (Specified Work Vaccinations) Order 2021 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

COVID-19 Public Health Response (Specified Work Vaccinations) Amendment Order 2022 (SL 2022/14)

COVID-19 Public Health Response (Specified Work Vaccinations) Amendment Order 2021 (SL 2021/439)

COVID-19 Public Health Response Act 2020 (2020 No 12): section 16(1)