



(MOH, 2021z)

COVID-19 Public Health Response (Vaccinations) Order 2021

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

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Order

1 Title

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

2 Commencement

This order comes into force at 11.59 pm on 30 April 2021.

3 Purpose

The purpose of this order is to prevent, and limit the risk of, the outbreak or spread of COVID-19 by requiring work at certain places to be carried out by affected persons who are vaccinated.

4 Interpretation

In this order, unless the context otherwise requires,—

affected aircraft means an aircraft (other than an aircraft undertaking a QFT flight) that arrives from a location outside New Zealand

affected airport means an airport at which an affected aircraft arrives from a location outside New Zealand

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

- (a) carries out work in any capacity (whether paid or unpaid) at a place; or
- (b) otherwise conducts any activity at a place

affected port means a port where a ship arrives from a location outside New Zealand

affected ship means a ship with any person or persons on board who are required to be isolated or quarantined in accordance with a COVID-19 order

airside, in relation to an affected airport, means any part of the affected airport that is inaccessible to the general public but that is accessible to international arriving or international transiting passengers (for example, a Customs-controlled area)

government official means an affected person whose relevant PCBU is a public service agency

group means a group of affected persons specified in the second column of an item of the table set out in Schedule 2

managed isolation facility means a facility that is designated by the New Zealand Government for use as a place of isolation

managed quarantine facility means a facility that is designated by the New Zealand Government for use as a place of quarantine

place, in relation to a group, means a place specified in a Part heading in the table set out in Schedule 2 that applies to the group

public service agency means any of the agencies listed in section 10(a) of the Public Service Act 2020

QFT flight has the meaning given by clause 4A of the COVID-19 Public Health Response (Air Border) Order (No 2) 2020

QFT person has the meaning given by clause 4(1) of the COVID-19 Public Health Response (Air Border) Order (No 2) 2020

relevant PCBU means the PCBU (within the meaning of section 17 of the Health and Safety at Work Act 2015) who employs or engages an affected person to carry out work

vaccinated, in relation to a person, means that the person has received 2 injections of the Pfizer/BioNTech COVID-19 vaccine.

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.

Duties in relation to vaccinations

7 **Duty of affected person not to carry out work unless vaccinated**

An affected person must not carry out work or otherwise conduct an activity at a place unless they are vaccinated.

8 **Duties of relevant PCBUs in relation to vaccinations**

- (1) A relevant PCBU must not allow an affected person to carry out work or otherwise conduct an activity at a place unless satisfied that the affected person is vaccinated.
- (2) A relevant PCBU—
 - (a) must notify each affected person of their duty to be vaccinated; and
 - (b) must not prevent the affected person from reporting for, and undergoing, vaccination during their working hours, if vaccinations are available during those hours.

9 **Exceptions**

- (1) This clause applies despite anything in clause 7 or 8.
- (2) A chief executive may authorise a person who has not been vaccinated to enter and carry out work at a place if the work—

- (a) is unanticipated, necessary, and time-critical and cannot be carried out by a person who is vaccinated; and
- (b) must be carried out to prevent the place from ceasing operations.
- (3) A person who is authorised to enter a place under subclause (2) may be authorised to re-enter as many times as is necessary to complete the work.
- (4) A person who is not vaccinated may enter a place without approval if they—
 - (a) need to enter to preserve or protect a person’s life, health, or safety in an emergency; or
 - (b) are authorised or required to by law.
- (5) In this clause, **chief executive**,—
 - (a) in relation to a managed isolation facility or managed quarantine facility, means a chief executive of the public service agency responsible for the place where the work is carried out;
 - (b) in relation to any other place, means a chief executive of the relevant PCBU for whom the person described in subclause (2) carries out work.

10 Duties of relevant PCBUs regarding vaccination status

- (1) The relevant PCBU must—
 - (a) ask the Ministry of Health to confirm whether an affected person is vaccinated; or
 - (b) access the register specified in clause 12 to confirm whether the person is vaccinated.
- (2) The relevant PCBU must notify the affected person that—
 - (a) the affected person has a duty to be vaccinated; and
 - (b) the relevant PCBU has checked the affected person’s vaccination status under subclause (1).
- (3) The relevant PCBU must, as soon as practicable, notify the Ministry of Health—
 - (a) of any change reported to the relevant PCBU under clause 11;
 - (b) that a person that the relevant PCBU has engaged or employed has ceased to be an affected person for the relevant PCBU.

11 Duties of affected person regarding vaccination status

An affected person who is to carry out work at a place—

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

- (b) must notify the relevant PCBU of any change in their vaccination status as soon as practicable, including the dates on which they receive any injections of the Pfizer/BioNTech COVID-19 vaccine.

12 Duty of Director-General to keep, maintain, and monitor vaccination register

The Director-General must—

- (a) keep, maintain, and monitor a register that records the COVID-19 vaccination status of affected persons; and
- (b) provide to the relevant PCBU the vaccination status of an affected person who the relevant PCBU has identified as being subject to this order.

Infringement offences

13 Infringement offence

A breach of clause 7, 8, 10, or 11 is an infringement offence for the purposes of section 26(3) of the COVID-19 Public Health Response Act 2020.

Schedule 1

Transitional, savings, and related provisions

cl 5

Part 1

Provisions relating to this order as made

1 Transitional provision for affected persons on or before commencement

If, on or before the commencement of this clause, an affected person has had 1 injection of the Pfizer/BioNTech COVID-19 vaccine, the affected person must be treated as being vaccinated until the close of 4 June 2021.

2 Transitional provision for persons who become affected persons after commencement

- (1) This clause applies to a person who becomes an affected person on or after 1 May 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

Groups of affected persons and relevant requirements

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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	Airside government officials
3.2	Government officials who interact with international arriving or international transiting passengers (other than passengers arriving on QFT flights)
	<i>Part 4: Groups in relation to affected ports</i>
4.1	Government officials who spend more than 15 minutes in enclosed space on board affected ships
4.2	Government officials who board, or have boarded, affected ships
4.3	Government officials who transport persons to or from affected ships
4.4	Government officials (other than those specified in items 4.1 to 4.3) who work at an affected port and 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	Cabin crew who travel on domestic flights within New Zealand that carry international arriving or international transiting passengers (other than QFT persons) who have not yet completed isolation or quarantine at managed isolation facilities or managed quarantine facilities

Dated at Wellington this 28th day of April 2021.

Hon Dr Ayesha Verrall,
Associate Minister of Health.

Explanatory note

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

This order comes into force at 11.59 pm on 30 April 2021. Its purpose is to prevent, and limit the risk of, the outbreak or spread of COVID-19 by requiring work at certain places to be carried out by affected persons who are vaccinated. The order creates duties in this regard for certain persons and relevant PCBUs.

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 this 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*: 28 April 2021.

This order is administered by the Ministry of Health.

