

**Ministry of Health: Health & Disability Worker Vaccinations Order**

This summary fact sheet has been prepared with content from the Health & Disability Worker Vaccinations Order Guidance document for PCBUs and workers found on the Ministry of Health’s website and updated regularly. <https://www.health.govt.nz/our-work/diseases-and-conditions/covid-19-novel-coronavirus/covid-19-response-planning/covid-19-mandatory-vaccinations>

Please understand that the Health & Disability Worker Vaccinations Order is not written by Manawanui, and while we understand the pressure it may put on you, it is our responsibility to communicate its key points and what it means for you as an employer.

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| *What is the Health & Disability Worker Vaccinations Order?* |
| The Ministry of Health have delivered a **Health & Disability Worker Vaccinations Order** that requires certain groups of people to be fully vaccinated and provide proof of that vaccination to legally perform their role. |
| *When does the Health & Disability Worker Vaccinations Order come into effect?* |
| The Health & Disability Worker Vaccinations Order came into effect on the 25th October 2021 and states that:   * As of 11:59pm November 15th, 2021, your employees must have had the first vaccination.  If they have not, they will need to be stood down. * As of 11:59pm January 1st, 2022, your employees must have had both their vaccinations. If they have not, they will need to be stood down. |
| *Who is affected by the Health & Disability Worker Vaccinations Order?* |
| **As an IF customer, this Order applies to all your employees as they fall within the following groups:**   * Health practitioners (as defined by the [HPCA](https://www.legislation.govt.nz/act/public/2003/0048/latest/DLM203312.html)) * Workers who carry out work where health services are provided to members of the public by 1 or more health practitioners and whose role involves being within 2 metres or less of a health practitioner or a member of the public for a period of 15 minutes or more * Workers employed or engaged by certified providers who carry out work at the premises at which the health care services are provided * Care and support workers: People employed or engaged to carry out work that includes going to the home or place of residence of another person (not being the home or place of residence of a family member) to provide care and support services. |
| *Do family members providing health care to whānau at home need to be vaccinated?* |
| Yes, paid family carers providing care to other family members within their home are included as affected persons in the Health Order. |
| *Can I contract out of this order?* |
| You cannot contract out this requirement or ignore it.  If you choose to continue to employee someone who is not vaccinated, you will be in violation of the Order, and the Health and Safety at Work Act (providing a safe workplace), and even if you have agreed this with your employee. You can be prosecuted, and any agreement that you have with employee will not stand up in court because the Order is legally binding.  For example, if you agree with an employee, that you are both ok with that person being unvaccinated and working for you, and you, or they get Covid and spread it to each other – that person can prosecute you, and your agreement will not stand up in court.  From 11.59pm on 15 November 2021, Worksafe may issue an employer with a fine of up to $1,000 for every worker found to be non- compliant. The Order also has heavier penalties for intentionally failing to comply with a COVID-19 order. |
| *As a disabled person and employer, am I required to be fully vaccinated?* |
| No. If an employee doesn’t want to work for you because you are not vaccinated, then this is their choice. |
| *Is there a way I can get excluded from this Health Order* |
| Please review the MoH website for details on applications for exemptions:  [**https://www.health.govt.nz/our-work/diseases-and-conditions/covid-19-novel-coronavirus/covid-19-response-planning/covid-19-mandatory-vaccinations/covid-19-exemptions-mandatory-vaccination**](https://www.health.govt.nz/our-work/diseases-and-conditions/covid-19-novel-coronavirus/covid-19-response-planning/covid-19-mandatory-vaccinations/covid-19-exemptions-mandatory-vaccination)   1. **Temporary Medical Exemption:**   A member of the public cannot apply for an exemption for themselves. If the Order applies to the person and they are not vaccinated and think they might be eligible for a temporary medical exemption, their usual medical practitioner or nurse practitioner can apply on their behalf.  The application may only be on the grounds that the person meets the specified exemption criteria. The application is submitted to the temporary medical exemptions panel run by the Ministry of Health.  The Temporary Medical Exemptions panel includes medical and nurse practitioners and a Māori health leader. The panel will consult with external experts if required.  The Director General of Health notifies the applicant and the person of the outcome of the application. If the application is granted then a copy of the exemption will be provided in written or electronic form noting the expiry date of the exemption, which is for up to six months.  A worker may not exempt themselves even if they are a suitably qualified health practitioner.   1. **Temporary Significant Service Disruption Exemptions**   The employer (PCBU) of the worker needs to apply for a temporary significant service disruption on their behalf. An affected health and disability sector worker who is self-employed will apply as their own PCBU.  The application requires the PCBU to include details of its planning for risk management, health protection, impact on its service and efforts to support the ‘affected’ worker’s vaccination.  A plan is required for each ‘affected’ worker.  The COVID-19 Response Minister notifies the applicant, and the affected worker of the outcome of the application. If the application is granted a copy of the exemption will be provided in written or electronic form.  This exemption will be for a specified time period to allow the PCBU time to manage the risk of significant service disruption so regular business can resume as soon as possible. The significant service disruption exemption duration will be for up to six months. |
| *As an employer, what do I need to comply with the Health & Disability Worker Vaccinations Order?* |
| There are several other responsibilities outlined in Section 3 of the MoH Guideline Document found at the following location:  <https://www.health.govt.nz/our-work/diseases-and-conditions/covid-19-novel-coronavirus/covid-19-response-planning/covid-19-mandatory-vaccinations>  Key Responsibilities to be compliant with the Order are:   1. Write to all your employees to communicate the Order and ensure that they understand that it means they must be vaccinated by 11.59pm on 15 November 2021 to continue to perform their job. There is a sample letter in Appendix 2 of the of the MoH guideline document: 2. Check vaccination status of workers by sighting copies of an individual’s COVID-19 immunisation status from My Covid Record or other suitable evidence of vaccination. Employees can get this through registering themselves on the My Covid Record website <https://app.covid19.health.nz/> and requesting their vaccination status. 3. Complete a risk assessment with exempted workers to identify if there is still significant risk in them performing their support and care role and agree any risk mitigations if you determine that there is not. |
| *Can an employee continue to work if they are not vaccinated?* |
| No. An employee cannot legally continue to work from November 15th, 2021 if they have not had at least their first vaccination unless they have had an exemption. |
| *What if my employee is not vaccinated but is intending to get it? Do I need to stand them down?* |
| Yes, you do, however you need to pay them through this period. Make sure that you have a reasonable timeframe on this as vaccines are readily available and the alternate Astra Zeneca vaccine is also readily available. |
| *What if my employee is undecided about whether to get vaccinated?* |
| Then then need to be stood down, and it is up to you whether you want to pay them through this period using discretionary leave. Please note that this will be available to be used in our portal from next week, however it will come out of your funding, so again please put some reasonable time frames against this.  Please note that it is important that you treat all your employees consistently and act in good faith as an employer; respectfully, fairly, lawfully, and full transparency. |
| *How do I stand down employees who are not vaccinated by November 15th, 2021?* |
| If your employee does not have a temporary medical exemption and is unable to provide you evidence that they have had their first dose of the vaccine, or is unwilling to disclose their vaccination status, you will need to assume that they are unvaccinated and take steps to stand them down from their duties.  You can start to discuss suitable redeployment options to move them to a role where vaccination is not required. If no redeployment options are available, then you will need to bring the employment relationship to an end, by giving formal notice of termination.  This means that they will be stood down, are on termination notice, and will need to be paid throughout this period. As at now, the termination period is as per the employment contract they have with you, however legislation will be changing in early December requiring that this is a minimum of 4 weeks regardless of the contract (which may be less than this).  It’s is really important that you manage this termination process by following all the correct steps and act in good faith as an employer.  Please be sure to document all correspondence and meetings in relation to employment matters.  You all have access to the EMA as a customer of Manawanui and we’d encourage you to seek advice from them or from an appropriate human resources or employment law professional to ensure you conduct the process in line with your legal obligations. Other employment reference information:  * <https://www.employment.govt.nz/resolving-problems/steps-to-resolve/disciplinary-action/suspension/> * <https://www.employment.govt.nz/ending-employment/giving-notice/> * <https://www.employment.govt.nz/assets/Uploads/tools-and-resources/documents/dbe57165f5/Sample-> [letter-termination-of-employment-dismissal-on-notice.docx](https://www.employment.govt.nz/assets/Uploads/tools-and-resources/documents/dbe57165f5/Sample-letter-termination-of-employment-dismissal-on-notice.docx) |
| *What are my rights as an employer if my employee has an exemption, but I feel that this poses a significant health risk to me?* |
| You are within your rights as an employer to perform a risk assessment to assess the likelihood of risk and the impact of the consequences of the risk – which may be significant depending on your disability.  You should seek guidance from the EMA about how you should handle this situation. |
| *Can employees take annual leave while we are determining the next steps for them?* |
| Yes, they can. This is applied for in the usual way. They can also take “Leave Without Pay”. |
| *Will Manawanui be asking me for vaccination proof of my employees?* |
| No. This is your responsibility as an employer to manage and Manawanui will not be asking for this. |
| *Will my funding be stopped if I fail to comply?* |
| No, you will not lose your disability support funding, however please be aware that you will be breaking the law. |

Once again, we recommend that you read the information available in the guidance document on the Ministry of Health’s website.

If there are any question that you still have you can email the Ministry directly to ask these at [healthorders@health.govt.nz](mailto:healthorders@health.govt.nz).