



Our explanatory note about the drastic and abrupt changes made under the *COVID-19 Public Health Response (Required Testing and Vaccinations) Amendment Order 2021 (New Order)*

This late change has occurred 2 weeks after the long awaited Vaccination Order was delivered and a week before the majority of the mandated workers are required to receive their first dose.

Voices For Freedom condemns this almost weekly law change which creates chaos and uncertainty, stress and anxiety, yet further highlights the ineptitude this government displays while highlighting the impact we are having in standing up to this tyrannical and ignorant behaviour.

Amendment to the Vaccinations Order

Late Friday night (5 November 2021) the government made an abrupt law change amending the COVID-19 Public Health Response (Vaccinations) Order 2021 (**Vaccination Order (No 3)**) by introducing the COVID-19 Public Health Response (Required Testing and Vaccinations) Amendment Order 2021 (**New Order**).

The link to the New Order is:

<https://www.legislation.govt.nz/regulation/public/2021/0358/latest/whole.html#LMS592014>

The main changes in the New Order

1. Several categories of persons covered by the mandate have been redefined including health care practitioners and care and support workers;
2. the new clause 7A has been revoked in its entirety meaning that all individual exemptions have been revoked;
3. new transitional provisions affecting police employees involved in health or educational facilities (Schedule new part 4, clause 9);
4. also transitional provision for workers who were exempt – essentially providing a one week extension for prison and workers who handle affected items;
5. appears to narrow the affected workers related to prisons by making reference to corrections prison rather than prison (if you are a prison worker we recommend you look into this more).

A recap on Vaccination Order (No 3):

1. Extends the groups of persons who the government says is required to be vaccinated.

2. Requires employers of those groups to maintain a vaccine register.
3. Allows for exemptions from vaccination (now in more limited circumstances).
4. Under section 7 of the Vaccination Order (No 3), "An affected person must not carry out certain work unless they are vaccinated."
5. This expands on the groups of workers that are required to be vaccinated and includes people working in the health and disability sector, prisons and education (see Schedule 2 of the Vaccination Order for the full list of groups – below we set out only the new groups covered):

NOTE:

- At this time (7 November 2021) there is no government mandate covering requiring vaccination for the extended-extended group as mentioned by the Prime Minister. That is, "close contact" businesses like gyms, hospitality businesses, hair dressers etc, that would be (apparently and again there is as yet no law on this) required to operate with a vaccine passport system.
- It's important when ascertaining if you are covered by the above schedule that you check that certain terms are not defined in clause 4 of the Vaccination Order: COVID-19 Public Health Response (Vaccinations) Order 2021 eg "affected education service", "care and support services", "care and support worker", "health practitioners" (now limited to patient contact), "home based education and care service", "certified providers" and more.
- The Order states that "An affected person" must not carry out certain work unless they are vaccinated. The affected persons are set out in Schedule 2 as above and explained in plain English below to make it easier for you to assess if you fall within the "affected persons". (Any errors or inconsistencies, the Schedule as set out in the Order takes precedence.)

MAIN CHANGES OF NEW ORDER COMING INTO EFFECT 11.59PM SUNDAY 7 NOVEMBER 2021

1. Change to health practitioners change in definition

The New Order has clarified this with the definition of "Health Practitioners" changed to be "Health practitioners providing health services to patients **in person**" [emphasis added].

This means those Health Practitioners that have no face to face contact with a patient (such as telehealth) are no longer affected by the vaccination mandate and can continue working.

2. No change to health worker definition

The definitions have not changed for health care workers, those that:

- 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; and
- are employed or engaged by certified providers and carry out work at the premises at which health care services are provided

Examples		<i>Health Practitioner</i> ¹		<i>Workers</i>						Need to be
Worker Role	Section / Part of Order	Schedule 2, Part 7.1		Schedule 2, Part 7.2				Schedule 2, Part 7.3		Jabbed
		Am I a health practitioner	In person with patient	Location where health services ² provided	To members of the public	Time > 15mins / person; and	Distance >2m with health practitioner or member of the public	Employed or engaged by certified provider ³	At a health care services ⁴ premises	
Doctor at GP = Health Practitioner	Schedule 2, Part 7.1	Yes	Yes							Yes
Telly health	Schedule 2, Part 7.1	Yes	No							No
Admin/reception	Schedule 2, Part 7.2			Yes	Yes	No	Yes-	Yes	No-	No
Typist in the basement	Schedule 2, Part 7.3			Yes	No	No	If Yes - can be managed	Check ⁵	Yes	Yes
Medical courier – self employed	None			Yes	No	No	If Yes - can be managed	No	Yes	No
Medical courier engaged by a certified provider	Schedule 2, Part 7.3			Yes	No	No	If Yes - can be managed	Yes	Yes	Yes

¹ “**health practitioner**” as a person who is, or is deemed to be, registered with an authority as a practitioner of a particular health profession, section 5(1) of the Health Practitioners Competence Assurance Act 2003 defines the term

² **health service** means a service provided for the purpose of assessing, improving, protecting, or managing the physical or mental health of individuals or groups of individuals, section 5(1) of the Practitioners Competence Assurance Act 2003

³ Search **certified provider** <https://www.health.govt.nz/your-health/services-and-support/certified-providers>

⁴ **health care services** means services that are hospital care, residential disability care, rest home care, or specified health or disability services, section 4 of the Health and Disability Services (Safety) Act 2001

⁵ Search **certified provider** <https://www.health.govt.nz/your-health/services-and-support/certified-providers>

3. Change to definition of care and support workers

The New Order redefines care and support worker. The Vaccination Order 3 distinguished between caring for non-family members, the old order defined:

care and support worker means a person 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

That definition however has been broadened under the New Order. The new definition of care and support worker potentially means that a family members who is *engaged* to care for another family member either in that family members home or the carer's home are required to be vaccinated:

care and support worker means a person employed or engaged to provide care and support services within a home or place of residence

The ambiguity is around the word engaged and whether receiving a carer's allowance or ACC grant to care for a family member means that that person is *engaged*.

While this broadening of the definition is, in the first instance concerning, we envisage that it would be difficult to enforce and police.

4. Change to exemptions

Individual exemptions – clause 7A - revoked

Effective at 11:59pm on Sunday 7 November 2021, the low level broadly available exemption that was available in clause 7A is revoked.

The clause 7A exemption was one that a *suitably qualified health practitioner* could give having examined and determined that it was *inappropriate* for an affected worker to be vaccinated because of a "*physical or other need*".

Exemptions given for education or health care workers pursuant to clause 7A are invalid as of 11:59pm on Sunday 7 November 2021.

Exemptions given for prison workers and those handling affected items are valid until 11:59pm until 21 November 2021.

The new individual exemptions process is covered in clause 9B of the New Order:

1. A medical practitioner or nurse practitioner can apply for an exemption, this must be sent to the Director General for approval.
2. Strict criteria applies as to what circumstances may give rise to an exemption under this process (this criteria was promulgated on Saturday 6 November 2021 – see below for link to this⁶).

Minister-granted exemptions/exceptions – clause 12A

Clause 12A effectively allows an employer to apply for an exemption for employees (and themselves) where supply of services would be interrupted.

⁶ [vaccine temporary medical exemption v1.0 final.pdf \(health.govt.nz\)](#)

Previously, clause 12A supply chain disruption exemptions could only be applied for by an employer in prisons and health care. However, with the New Order this has been extended to registered schools and hostels.⁷

Frequently asked questions:

a. *What should I do if I'm an exemption provider?*

Exemptions for healthcare workers and teachers will now need to be considered under new clause 9B and the separately gazetted criteria⁸.

Exemptions for prison workers will also need to be considered under new clause 9B if they are to require a further exemption after 21 November 2021.

NOTE: All suitably qualified health practitioners can still provide exemptions for other workers under informal mandates from their own industries - we are aware that many industries are "mandating" the vaccine now. The law change does NOT affect other industries, and therefore medical exemptions can be provided and an employer will need to undertake a health and safety audit to identify work. See template letter <https://voicesforfreedom.co.nz/employment> see Letter to employer where requested but not mandated / providing exemptions and outlining next step.

You can also continue to give medical certificates for 'off work' certificate for stress leave for all workers.

b. *What does this mean for those who already have exemptions?*

For education or health care workers who obtained an exemption pursuant to clause 7A, these are invalid as of 11:59pm on Sunday 7 November 2021 and the education or health care workers will need to speak with their General Practitioner or Nurse Practitioner about seeking an exemption under new clause 9B.

For prison workers or persons who handle affected items that have obtained an exemption can continue working up until 21 November 2021. After this date they may no longer work in a prison or continue in a position that handles affected items, unless they obtain a further exemption from their General Practitioner or Nurse Practitioner about seeking an exemption under new clause 9B.

c. *Are there any other options?*

An employer of prison, healthcare worker, registered school or hostel can apply for a Minister-granted exemption (as described above).

d. *What are my options if I'm an affected worker?*

⁷ <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-and-exceptions-mandatory-vaccination>

⁸ [vaccine temporary medical exemption v1.0 final.pdf \(health.govt.nz\)](#)

Before 15 November 2021 we are expecting one, if not two decisions from High Court judges that are considering whether the government even has the power to mandate vaccination.

Should the legal argument be successful the decision/s will find that the government's vaccination mandates are illegal and inconsistent with the New Zealand Bill of Rights Act 1993 forcing the government to either change the current law and with the follow on effect very likely meaning that we will see changes in the dates by which certain measures are supposed to be taken – eg the date for the first jab (15 November 2021).

In the meantime, if you are an affected workers you have a number of options:

- seek a medical exemption under clause 9B
- ask your employer to seek a Minister-granted exemption under clause 12A
- wait for your employer to terminate you
- consider taking sick leave/stress leave while you consider your options

The advantages of taking sick leave:

- sick leave which would otherwise go unused can be used (if applicable)
- provides people time and space from work to consider their options
- allows time for the court decisions, which may change everything
- gives employers and indication of the pressures it will be under with a reduction in the workforce.

If you are under severe stress you have every right to go to your GP and request an 'off work' certificate for stress leave. This does not need to state the reason for your leave. It is common practice for GPs to provide retrospective off work certificates from the date the illness started (in the case of gastroenteritis or flu for example).

We encourage you to hold the line. As mentioned above, there are court cases proceeding as we speak, several new legal actions filed and to come before the court and yet more actions being put together on behalf of various groups that are yet to be filed. Any one of these could provide an outcome which would mean that the government order mandating the jab could be overturned before 15 November 2021 or at the very least dates delayed.

There is hope: in Quebec, the Minister of Health recently abandoned the vaccination mandate for healthcare workers, stating it would have a "devastating effect" on the system. This despite a 97% vaccination rate since the mandates were first announced. Remember, there are hundreds of thousands of us who are currently not vaccinated and if we all leave together it may be that the same thing happens here.

Stand Strong. You are Many. Together You Are Mighty.