

COVID-19

Health & Disability Worker Vaccinations Order

Guidance document for PCBUs and workers

This Guidance Manual is a living document. Updates and changes will be made and released as required.

Summary of Changes

Version	Date	Section/ Appendix	Summary of Changes
0.1	22 October 2021		Initial guidance document created.
0.2	23 October 2021		Minor corrections
0.3	26 October 2021		Additional FAQs and wording to improve clarity
0.4	5 November 2021	Sections 2.2 & 4.1 Appendix 5 & 6	Made changes to clarify who is required to be vaccinated against COVID-19 and the exemption process.
0.5	11 November 2021		Corrected definition of care and support worker
0.6	24 January 2022		Addition of Astra Zeneca and Boosters Changes to the Vaccination Order for Health and Disability workers to include a booster dose required by six months (183 days)
0.7	15 February 2022		Changed deadline date to 11.59 pm Thursday 24 February 2022
0.8	13 May 2022	Appendix 5	Updated process flows to include process flow for 1A

Document Approval

Date	22 October 2021

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Introduction

1.1 Background

The New Zealand Government has responded to the global COVID-19 pandemic with a range of public health initiatives.

The Government's goal is to get everyone in Aotearoa New Zealand aged 5 and over vaccinated against COVID-19. The COVID-19 vaccination is free – it doesn't matter what your visa or citizenship status is.

The vaccine that is primarily used in New Zealand is the Pfizer/BioNTech COVID-19 Vaccine.

Recognizing that some people are at higher risk of coming into contact with the virus or, because of their age or health status, are more likely to experience poorer outcomes if they do fall ill with COVID-19, the vaccine has been progressively rolled out to people, depending on which one of four groups they are in, as follows:

Groups	Details
<u>Group One</u>	Group 1 includes people working at the border or in MIQ, and the people they live with (household contacts). Border workers undertaking certain work at MIQ facilities, ports and airports who are at the greatest risk of exposure to COVID-19 must get vaccinated.
<u>Group Two</u>	High-risk frontline health workers and their household contacts, and people living in high-risk places Also includes frontline staff who interact with customers and provide transport and logistic services directly supporting the vaccination programme.
<u>Group Three</u>	People aged 65 and over, and those at risk of getting very sick from COVID-19.
<u>Group Four</u>	Everyone else aged 12 or over, with vaccinations to be given to people in five-year age bands in descending order of age.

Table 1: Summary of COVID-19 vaccine rollout groups

Healthcare and disability workers are a valued and critical part of New Zealand's pandemic response, and early evidence suggests that vaccination may reduce transmission of the Delta and Omicron variant of COVID-19 and reduce the risk of serious illness, which would burden New Zealand's health system.

Healthcare and disability workers have been able to be vaccinated against COVID-19 since March 2021, and District Health Boards have already achieved significant high rates of voluntary vaccination so far.

Vaccination remains our strongest and most effective tool to protect against infection and disease, and we need as many workers as possible to be vaccinated to allow our health services to respond to the pandemic and deliver everyday health services with as little disruption as possible.

Workers mandated as part of the Health and Disability sector must have received two vaccines by 11.59pm on 1 January 2022.

A further change to the Order that took effect at 11.59 pm Monday 14 February 2022 now requires mandated workers to have a booster dose if eligible, by 25 February 2022 (11.59 pm on 24 February 2022) or by six months (183 days) after completion of their primary course.

1.2 Legislative context

On 11 October 2021, the New Zealand Government announced that health and disability workers will be required to be vaccinated against Covid-19 under the *COVID-19 Public Health Response (Vaccinations) Order 2021* (“the Order”).

The Order is a legally binding health instruction which requires certain groups of health and disability workers to be vaccinated to undertake certain work.

1.3 Purpose

This guidance document is designed primarily for Persons Conducting a Business or Undertaking (PCBUs) that employ or engage workers who undertake certain work in settings where healthcare occurs.

This document outlines:

- the purpose and scope of the Vaccination Order
 - the timeframes under the Order
 - the responsibilities of PCBUs under the Order, including assessing whether a worker is an ‘affected person’
- implications for PCBUs not meeting their responsibilities under the Order.

This document may also be used by health and disability agencies and other organisations involved in COVID-19 vaccination, or as part of ensuring monitoring and compliance.

This document aims to consolidate and make it easy to find and understand the Order. There may therefore be links to publicly available information, a consolidation of information you have already received, and new information.

This Guidance Manual is a living document. Updates and changes will be made and released as required.

Vaccination of affected persons undertaking certain work

2.1 Timeframes for compliance with the Order

The table below summarises the timeframes that workers under the Order must meet.

	1st dose by 11.59pm on	2nd dose by 11.59pm on	Booster dose by 11.59pm on
Health & Disability Workers (Affected Persons)	15 November 2021	1 January 2022	24 February 2022 if eligible or 183 days after completion of primary course

Table 2: Timeframes for compliance with the Order

The Vaccinations Order mandates that a booster dose is required by six months (183 days) from the end of the primary vaccination course. If the mandated date of your booster dose for your workforce falls before the date your vaccine booster shot is due (which is six months after completion of your primary course), you are not required to get your booster until you reach the six-month threshold. However, you are eligible for a vaccine booster shot from three months after the completion of your primary vaccine course and we recommend you take the opportunity for an earlier dose, rather than wait the full six months.

You must be 18 years or older to receive a booster dose. If you have people who work for you, who are under 18 years old and have had their primary vaccination course, they are able to continue to work.

Although the Vaccinations Order requires a booster dose six months after the primary course of vaccines, we would like to encourage all employers to support staff to get their booster vaccinations at three months (if clinically appropriate).

Any worker who does not comply with any of the above vaccination deadlines must not work in a role which requires them to be vaccinated under Schedule 2 of the Order.

Accepted vaccines can be found [here](#).

2.2 Scope of the Vaccinations Order

The Government has prioritised health and disability workers for vaccination since March 2021. The Order clarifies those workers who are affected persons for mandatory vaccination from 15 November 2021.

Affected persons include:

- Health practitioners (as defined by the [HPCA](#)) who see patients in person.
- workers who work in close proximity to health practitioners providing services to members of the public (for example, reception and administration staff in general practice, shop assistants in community pharmacies).
- workers employed or engaged by certified providers, which includes workers at a facility providing hospital care, rest home care, residential disability care or fertility services (for example, anyone working in a hospital setting such as laundry staff, orderly, administration staff, or rest home staff like kitchen and cleaning staff).
- care and support workers who are employed or engaged to carry out work that includes going to the home or place of resident of another person (including those living in the home or place of residence of a family member) to provide care and support services funded by the Ministry of Health, a DHB or ACC.

Key responsibilities under the Vaccinations Order

3.1 Details of roles

The table below outlines the roles and responsibilities of PCBU, affected persons, MoH and DHBs under the Order in relation to keeping vaccination records and ensuring only vaccinated workers undertake certain work.

	PCBUs/Employers	Affected persons	MoH/DHBs
In relation to the Order	<ul style="list-style-type: none"> • Must determine whether a person is a health and disability worker • Must assess whether a worker is an affected person 	<ul style="list-style-type: none"> • Must get vaccinated if they fall into one of the affected groups listed in Table 2 (in order to begin, continue or resume working in their present role) • Health workers must have had their 1st dose by 11.59pm on 15 November 2021, 2nd dose by 11.59pm on 1 January 2022 and booster dose if eligible, by 11.59pm on 24 February 2022 or 183 days after the completion of their primary course • After the dates above, any new workers covered by the Order will need to have their vaccine doses in line with the above requirements before starting work 	<ul style="list-style-type: none"> • MoH has developed the COVID-19 Immunisation Register (CIR) to keep records of COVID-19 vaccinations • MoH must provide PCBU/employer with worker vaccination status information if Privacy Act obligations have been met
In relation to vaccination records	<ul style="list-style-type: none"> • Maintain a safe, confidential way to record the vaccination status of workers covered by this Order • Seek assurance of the vaccination status of affected persons within their responsibility employed by other PCBUs • Provide factsheets for workers which outline the information that PCBUs will share about them • Ensure the contact details of affected persons are captured before they carry out certain work 	<ul style="list-style-type: none"> • Receive factsheets from employer about the information they will share about workers • Must provide and maintain their contact details (telephone and email address) to their employer • Advise the employer after they have received their first, second and booster doses of the vaccine • Register on the My Covid Record website and/or provide other suitable evidence of vaccination to provide to the employer • Note that worker information will be held and managed in accordance with the Privacy Act 2020 and Health Information Privacy Code 2020 	<ul style="list-style-type: none"> • Receive and maintain accurate worker information from PCBUs/Employers for inclusion in the centralised register • Provide compliance reporting to PCBUs/Employers and WorkSafe

	PCBUs/Employers	Affected persons	MoH/DHBs
	<ul style="list-style-type: none"> • 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 • Maintain records where there is a change of employment status • Provide accurate worker information to MoH for inclusion in the centralised register if required by MoH • Complete a risk assessment with exempted workers to identify and agree risk mitigations for those workers to continue to do their role safely • Can contact MoH for advice, support or clarification on: healthorders@health.govt.nz 	<ul style="list-style-type: none"> • Note that worker information can only be accessed by the employer and authorised enforcement officers • If they receive a Temporary Medical Exemption, they must notify their employer. • If exempted, must commit to adopting all necessary risk mitigations agreed with the PCBU/employer to ensure their safety and the safety of those they work with 	
In relation to getting a vaccination	<ul style="list-style-type: none"> • Notify, educate and support workers and affected persons of their responsibility to get vaccinated and boosted • Not prevent any worker from being vaccinated if their appointment to be vaccinated or boosted falls within their working hours • We encourage employers to pay employees should they need to be vaccinated or boosted during working hours 	<ul style="list-style-type: none"> • Speak to employer, peers, union, vaccination provider (e.g.: general practice, community pharmacy, urgent care, Hauora Maori, Pacific provider) to find out more about getting vaccinated, the vaccination process or the vaccine itself • Speak to employer about any special vaccination arrangements that have been made with the DHB in their region • Book their vaccine by going onto the Book My Vaccine website, by calling the COVID Vaccination Healthline on 0800 28 29 26 8am-8pm, 7 days a week, or attend a drive-through or walk-in vaccination clinic without a booking 	<ul style="list-style-type: none"> • DHBs may make special arrangements with PCBUs for vaccinating their workers where required • DHBs will prioritise health and disability workers for a vaccination

Table 5: Summary of key responsibilities

3.2 Note about protecting the privacy of worker information

Keeping worker health information secure is important, and the MoH takes this responsibility very seriously. Access to the CIR is limited to those with logon access rights, and all access is recorded and can be audited.

Only PCBUs/employers and the MoH CIR support team can see information about health workers. On a “need to know” basis, some other MoH staff can see anonymised information from the CIR to assist with the COVID-19 response.

Workers’ information is held and managed in accordance with the [Privacy Act 2020](#) and the [Health Information Privacy Code 2020](#). In addition, all information stored in the CIR is held securely in compliance with [Ministry of Health standards](#).

Any worker wanting to know what information is held about them on the CIR can contact the MoH at: information@health.govt.nz.

Exemptions

The Government wants everybody who is carrying out work in health to be vaccinated. There are very few [exceptions](#) to this. Process maps for exemptions can be found in Appendix 5.

4.1 Temporary Medical exemptions

- There are very few situations where a vaccine is contraindicated and, as such, a medical exemption is expected to be rarely required.
- Exemptions should be limited to situations where a suitable alternative COVID-19 vaccine is not readily available for the individual.
- Exemptions should be for a specified time, reflecting, for example, recovery from clinical conditions or the availability of alternate vaccines.
- It is likely that most people who are not medically exempt can be safely vaccinated, with some requiring extra precautions.
- Overseas medical exemptions are not applicable and must be applied for again.

The medical exemption duration is up to 6 months, with the ability to apply for a new exemption if required. This time period will allow individuals who can safely be vaccinated, with either the same vaccine or an alternative vaccine, as appropriate, to be protected against COVID-19 in a timely way.

Workers may be exempt from the requirement to be vaccinated if they meet the criteria for temporary COVID-19 Vaccine Medical Exemptions:

- A suitably qualified medical practitioner or nurse practitioner reviews the consumer’s medical history and assessed the person’s state of health, and considers that the vaccination is clinically contradicted for the person in accordance with the criteria, and completes and submits an application (on the approved application form), including all the medical evidence supporting the application to the MoH, and
- Upon receipt of the application the MoH panel assesses and makes a recommendation to the Director-General of Health who approves or declines the exemption.
- This process may take up to 10 working days from receipt.

A suitably qualified health practitioner is a Medical Practitioner or Nurse Practitioner, who is registered with the relevant responsible authority, has an ongoing clinical relationship with the consumer, and holds a current Annual Practising Certificate (APC) issued by their regulatory body.

Information regarding the clinical criteria for exemption is available on the [New Zealand Ministry of Health Website](#).

A worker may not apply for an exemption themselves, even if they are a suitably qualified health practitioner.

There is no guarantee that workers who receive a health exemption may continue to work in their role.

4.2 Significant service disruption exemptions

A new process to manage service disruption exemptions for the health and disability sector was announced on 10 November 2021.

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 application is submitted to the temporary significant service disruption panel run by the Ministry of Health, which makes a recommendation to accept or decline the application to the COVID-19 Response Minister.

4.3 Other exceptions

An unvaccinated person may be permitted to enter and carry out work covered by this Order, if the work is unanticipated, necessary, and time-critical and cannot be carried out by a person who is vaccinated; and it must be carried out to prevent the workplace from ceasing operations.

Exceptions in these circumstances may only be granted by the responsible government chief executive. In all cases, appropriate personal protective equipment must be used in line with Ministry of Health guidelines.

A person who is not vaccinated may enter a workplace without approval if they need to enter to preserve or protect a person's life, health, or safety in an emergency; or they are authorised or required to by law.

Specific responsibilities in relation to monitoring and compliance under the Vaccinations Order

5.1 If an affected person does not get vaccinated

Affected persons who remain unvaccinated after the requirements come into effect will need to discuss options with their employer. They will not be able to continue working in a role that is subject to this Order until they are vaccinated.

	PCBUs/Employers	Affected persons	MoH	Worksafe
In relation to compliance	<ul style="list-style-type: none"> From 11.59pm on 1 January 2022, PCBUs must not allow an affected person to carry out certain work unless satisfied that the affected person has had the 2nd dose, or a booster vaccine from 11.59pm 24 February, if eligible, or 183 days after completion of their primary course. Must make the records it makes under the Order available to an enforcement officer (MoH or Worksafe) for investigation and enforcement purposes Need to work with an unvaccinated / part vaccinated employee to consider any other work they could undertake within their organisation while meeting the conditions of the Order After the above dates, if the PCBU allows unvaccinated /part vaccinated workers to carry out certain work 	<ul style="list-style-type: none"> From 11.59pm on 1 January 2022, health & disability workers who are affected persons must not continue working in a role subject to this Order until having received their 2nd dose or a booster dose by 11.59pm 24 February, if eligible, or 183 days after completion of their primary course. Need to work with their employer to consider any other work they could undertake within the organisation or other options such as taking a period of annual or unpaid leave If an agreement can't be reached, the employment relationship will end. 	<ul style="list-style-type: none"> MoH will work with PCBUs to confirm compliance of health workers (process still under development) Where unvaccinated / part vaccinated health workers have been identified, MoH will contact the relevant PCBU about the accuracy of data and actions required to comply Must make any records of non-compliant affected persons available to Worksafe 	<ul style="list-style-type: none"> From 11.59pm on 15 November 2021, Worksafe may issue a PCBU with an infringement fee or fine of up to \$1,000 for every worker found to be non-compliant NOTE: The Order also provides for heavier penalties for intentionally failing to comply with a COVID-19 order

	PCBUs/Employers	Affected persons	MoH	Worksafe
	<p>they are committing an offence under the COVID-19 Public Health Response Act 2020.</p> <ul style="list-style-type: none"> • Seek guidance from HR or employment law professionals to ensure a fair and appropriate process is undertaken 	<ul style="list-style-type: none"> • <i>Note – this is not a mandated process rather an indication of options</i> 		

Table 6: Summary of specific responsibilities in relation to monitoring and managing compliance

Appendix 1 - Summary of Vaccinations Order and amendments affecting the Health and Disability Sector

Vaccinations Order	Commencement date	Summary
Original	22 October 2021 (Gazetted) 25 October 2021 (Commencement)	The COVID-19 Public Health Response (Vaccinations) Order 2021 ("the Order") has made it a requirement for health and disability workers to be vaccinated against COVID-19.
Amendment	5 November 2021 (Gazetted) 11.59pm 7 November 2021 (Commencement)	The COVID-19 Public Health Response (Required Testing and Vaccinations) Amendment Order 2021 clarifies who is required to be vaccinated against COVID-19 and sets up a new centralised exemption process.
Amendment	22 January 2022 (Gazetted) 11.59pm 23 January 2022 (Commencement)	The COVID-19 Public Health Response (Vaccinations) Amendment Order 2022 makes booster doses mandated for all workforces covered under the Order.
Amendment	11 May 2022 (Gazetted) 11.59pm 15 May 2022 (Commencement)	The COVID-19 Public Health Response (Vaccinations) Amendment Order (No 4) 2022 makes changes to the exemption process for PCBU's for workers who have or have recently had COVID-19

Appendix 2 – Fact Sheet for PCBU Managers

Who is required to be vaccinated under the Health Order?

A PCBU means a Person Conducting a Business or Undertaking. It's a broad concept used throughout the Health & Safety at Work Act to describe all types of modern working arrangements which we commonly refer to as businesses. Most New Zealand businesses, whether large corporates, sole traders, or self-employed, are classed as PCBUs.

PCBUs are accountable under the COVID-19 Public Health Response (Vaccinations) Order 2021 ("the Order") to ensure workers within the scope of the Order are vaccinated for COVID-19.

Affected persons ("workers") include:

- Health practitioners (as defined by the [HPCA](#)) who see patients in person.
- workers who work in close proximity to health practitioners providing services to members of the public (for example, reception and administration staff in general practice, shop assistants in community pharmacies)
- workers employed or engaged by certified providers, which includes workers at a facility providing hospital care, rest home care, residential disability care or fertility services (for example, anyone working in a hospital setting such as laundry staff, orderly, administration staff, or rest home staff like kitchen and cleaning staff)
- care and support workers who are employed or engaged to carry out work that includes going to the home or place of resident of another person (including those living in the home or place of residence of a family member) to provide care and support services funded by the Ministry of Health, a DHB or ACC.

As an employer (PCBU) what are my responsibilities?

General requirements

- A relevant PCBU must not allow any affected worker under the Vaccinations Order (other than an exempt person) to carry out certain work unless satisfied that the affected person is vaccinated and boosted.
- A relevant PCBU must notify each person covered under the Vaccinations Order person of their duty to be vaccinated and boosted; and
- must not prevent the affected person from reporting for, and undergoing, vaccination during their working hours, if vaccinations are available during those hours.
- A relevant PCBU must not allow an affected person who provides a home-based education and care service to carry out certain work unless satisfied that every person:
 - at least 12 years of age but under 18 years of age in the home where the home-based education and care service is provided is vaccinated; and
 - 18 years of age or older in the home where the home-based education and care service is provided is vaccinated and has received a booster dose.

Register requirements

The Vaccinations Order puts requirements on PCBU to keep records of vaccinations of their affected workers.

The order says:

A Duties of relevant PCBUs of affected persons belonging to groups specified in Part 7, item 8.2 of Part 8, or Parts 9 or 10 of Schedule 2: vaccination records

The relevant PCBU must, for each affected person employed or engaged by the PCBU, keep and maintain a record of the following information:

- the affected person's full name:
- the affected person's date of birth:
- a telephone number and email address by which the affected person may be contacted:
- whether the affected person is vaccinated:
- if the affected person is vaccinated,—
 - the name of the COVID-19 vaccine or vaccines they have received; and
 - the date or dates on which they received a dose of the vaccine or vaccines:

This has been now extended under changes to the order to now include records of booster doses:

if the affected person has received a booster dose:

- the name of the COVID-19 vaccine they received; and
- the date on which they received that dose:
- Noting that if the affected person (other than an affected person who is under 18 years of age or who belongs to a group specified in Part 10 of Schedule 2) is vaccinated but has not received a booster dose, the latest date by which they must receive the booster dose

What do I do if a worker has not received their 2nd dose of the vaccine by 11.59pm on 1 January 2022 or a booster vaccine by 11.59pm 24 February 2022 if eligible, or 183 days after completion of their primary course?

All people covered by the Order must have received their second dose of an approved COVID-19 vaccine by 11.59pm on 1 January 2022 and a booster dose by 11.59pm 24 February 2022 if eligible, or 183 days after completion of their primary course and provide you with evidence, such as My Covid Record.

Where they are unable to provide this evidence, you must take immediate steps to stand down the employee while you consult with them to establish if they have access to a medical exemption, or to discuss any suitable redeployment options for this employee to move to an alternative 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. Employees wishing to take leave or leave without pay can apply through your normal leave approval process and approval is at the employer's discretion. Employees will need to have received the 2nd dose of the vaccine before they return to work if the leave period ends after 11.59pm on 1 January 2022.

You are advised to seek support 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>

Fact Sheet for Health & Disability Workers

Who is required to be vaccinated under the Vaccination Order?

You are required to have received your second dose of an approved COVID-19 vaccine by 11.59pm on 1 January 2022, and a booster dose by 11.59pm 24 February 2022 if eligible, or 183 days after completion of their primary course if you are a paid or unpaid worker whose role comes within the scope of the Vaccination Order.

Affected persons (“workers”) include:

- Health practitioners (as defined by the [HPCA](#)) who see patients in person.
- workers who work in close proximity to health practitioners providing services to members of the public (for example, reception and administration staff in general practice, shop assistants in community pharmacies)
- workers employed or engaged by certified providers, which includes workers at a facility providing hospital care, rest home care, residential disability care or fertility services (for example, anyone working in a hospital setting such as laundry staff, orderly, administration staff, or rest home staff like kitchen and cleaning staff)
- care and support workers who are employed or engaged to carry out work that includes going to the home or place of resident of another person (including those living in the home or place of residence of a family member) to provide care and support services funded by the Ministry of Health, a DHB or ACC.

What must I do?

You must supply the PCBU (your employer) with evidence that you have received your second dose of an approved COVID-19 vaccine by 11.59 1 January 2022 and a booster dose by 11.59 24 February 2022 if eligible, or 183 days after completion of your primary course. You can do this by registering on [My Covid Record](#) and providing the result to your manager or employer. If you were vaccinated overseas, you will need to provide acceptable evidence of your vaccinations.

What happens if I have not received my 2nd dose of the vaccine by 11.59pm on 1 January 2022 or a booster dose by 11.59pm by 24 February 2022 if eligible?

Your employer is required by law to ensure that all affected persons have received their second dose of vaccine for COVID-19 by 11.59pm on 1 January 2022 or their booster vaccine by 11.59pm on 24 February 2022 if eligible. If they do not receive confirmation from you that you are vaccinated by then, they will assume you are not vaccinated. In this event, you will not be able to work in your health worker role from 2nd January 2022 for second dose or 15 February 2022 for your booster dose, if eligible and you will be temporarily stood down.

Workers who have not completed the required vaccine dose will be temporarily stood down from their duties, or your employer may agree to you taking annual or other leave while they consult with you whether any alternative arrangements or accommodation can be considered – including potential for redeployment, or if you believe you may have grounds, to allow time for you to be examined to establish your right to a medical exemption.

If, following a fair process, no alternatives are identified, your employment is terminated and you will receive notice of termination in accordance with your employment agreement, and any outstanding holiday pay entitlements.

You should seek independent advice, including from your union, if you are a member.

Appendix 3 – Common questions

When will the Order be in place?

The Order was approved by the Minister on 22 October 2021, and it came into force at 11.59pm on 25 October 2021. There have been further Amendments to this Order. See Appendix 1 for a list of the Amendments.

How will the Order work?

The Order requires that affected persons who fall within its coverage must be vaccinated against COVID-19 by specified dates (first dose by 11.59pm on 15 November 2021, second dose by 11.59pm on 1 January 2022 and booster dose, if eligible by 11.59pm 24 February 2022). It is an offence for an affected person to continue to carry out work without being vaccinated after the stated dates, and an offence for an employer to allow an affected person to undertake that work. Infringements and fines will apply.

Why are we doing this?

Health and disability workers are a valued and critical part of New Zealand's pandemic response, and clear evidence suggests that vaccination may reduce transmission of the Delta variant and Omicron variant of COVID-19 and reduce the risk of serious illness, which would burden New Zealand's health and disability system.

Health and disability workers have been able to be vaccinated against COVID-19 since March 2021, and some employers, such as DHBs, have already achieved significant high rates of voluntary vaccination so far.

Vaccination remains our strongest and most effective tool to protect against infection and disease, and we need as many workers as possible to be vaccinated to allow our health services to respond to the pandemic and deliver everyday health services with as little disruption as possible.

Who is an affected person?

Affected people

- Health practitioners (as defined by the [HPCA](#)) who see patients in person.
- workers who work in close proximity to health practitioners providing services to members of the public (for example, reception and administration staff in general practice, shop assistants in community pharmacies)
- workers employed or engaged by certified providers, which includes workers at a facility providing hospital care, rest home care, residential disability care or fertility services (for example, anyone working in a hospital setting such as laundry staff, orderly, administration staff, or rest home staff like kitchen and cleaning staff)
- care and support workers who are employed or engaged to carry out work that includes going to the home or place of resident of another person (including those living in the home or place of residence of a family member) to provide care and support services funded by the Ministry of Health, a DHB or ACC.

The coverage of the Order is broad, and in most cases applies to a large number of workers employed by DHBs and other public and private health care settings, no matter the role or job you do. The Order covers employees, contractors, service providers, casuals, students, temps, volunteers and others who 'work' as an employee or service provider in settings where healthcare is provided.

How do we know who has been vaccinated?

Start by asking your workers to confirm their vaccination status and record it securely as part of their employment record. They can do this by registering and showing you their vaccination record on the My Covid Record app. If they have been vaccinated overseas, they will need to show formal evidence of their vaccination.

<https://www.health.govt.nz/our-work/diseases-and-conditions/covid-19-novel-coronavirus/covid-19-vaccines/covid-19-requesting-proof-vaccination/my-covid-record>

What does this mean for me?

As many workers in health & disability settings are likely to be affected persons as defined by the Order, you will most likely be required to have been vaccinated against COVID-19 by the specified dates. If you have not been vaccinated by those dates, then you will probably not be allowed to continue to work in your current role after 2 January 2022 for second dose and 15 February for the booster dose if eligible.

Can my employees who are under 18 and vaccinated but don't have their booster yet still work?

Yes, they can. Please note boosters under the Vaccination Order can only be administered to people 18 years or older. For those under 18 years, they don't have to get their booster until they reach 18 years old.

Where can I find the Mandatory order changes?

You can find it here: <https://www.legislation.govt.nz/regulation/public/2022/0004/latest/>

How does the Order apply to people who have accepted, but not yet commenced employment?

People who are intending to work in a health care setting will be required to have two vaccinations before their commencement date if their start date is after 11.59pm on 1 January 2022 and a booster dose if eligible, or by 183 days after the completion of their primary course.

Will contractors and volunteers be required to be vaccinated?

Workers who are employed or engaged by certified providers (which includes workers at a facility providing hospital care, rest home care, residential disability care or fertility services) will be required to be vaccinated to perform that role. Workers who perform their work in close proximity to health practitioners or members of the public are also required to be vaccinated in order to perform that role. Care and support workers who are employed or engaged to provide care and support services within a home or place of residence must be vaccinated.

Will the Order affect visitors or guests?

Most visitors or guests will not be required to have a mandatory vaccination under the Order, however each organisation will have their own visitor policy relating to visitors to the premises, and you should consider the scope of the Order to ensure your policy reflects any new requirements.

What if I do not want to disclose my vaccination status?

It is preferable for workers to have open conversations with their employer around their vaccination status and their reasons for not being vaccinated. This is to ensure that organisations can comply with the Order, and provide for the health and safety of staff, clients and patients.

However, employers may seek approval to access vaccination status information directly from the Ministry of Health COVID-19 Immunisation Register (CIR).

What information do employers need to hold?

A PCBU must, for each affected person employed or engaged by the relevant PCBU, keep and maintain a record of the following information:

- the affected person's full legal name and date of birth
- a telephone number and email address by which the affected person may be reached
- the dates by which the affected person is required to be vaccinated
- the dates on which the affected person has received vaccinations and the type of vaccination(s) received
- any applicable exemption provisions for affected persons and written evidence of any exemption

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; and be made available as soon as practicable to MoH, WorkSafe or other authorised enforcement officer who requests access to the record. The PCBU must also work with affected people to ensure records are actively maintained for ongoing accuracy.

Can I get a temporary medical exemption?

The medical evidence to date suggests that there are only very rare circumstances a person will be clinically unable to receive the Pfizer vaccine. This is because the Pfizer vaccine is not a live vaccine. The medical advice we have received is that the vaccine is safe for people who:

- Are pregnant or breast feeding;
- Have pre-existing health conditions;
- Are on treatments that weaken the immune system (such as cancer and HIV treatments); and
- Have had severe reactions to other vaccines in the past.

There is also alternative vaccines e.g. Astra Zeneca and Novavax available to those workers who are unable to be vaccinated with the Pfizer vaccine, or who are hesitant to take an mRNA vaccine.

Workers may be exempt from the requirement to be vaccinated if they meet criteria for a temporary COVID-19 Vaccine Medical Exemption:

- A suitably qualified medical practitioner or nurse practitioner reviews the consumer's medical history and assessed the person's state of health, and considers that the vaccination is clinically contradicted for the person in accordance with the criteria, and completes and submits an application (on the approved application form), including all the medical evidence supporting the application to the MoH, and
- Upon receipt of the application the MoH panel assesses and makes a recommendation to the Director-General of Health who approves or declines the exemption.

A suitably qualified health practitioner is a Medical Practitioner or Nurse Practitioner, who is registered with the relevant responsible authority, has an ongoing clinical relationship with the consumer, and holds a current Annual Practising Certificate (APC) issued by their regulatory body.

Information regarding the clinical criteria for exemption will be available on the [New Zealand Ministry of Health Website](#)

A worker may not apply for an exemption themselves, even if they are a suitably qualified health practitioner.

Workers who receive a health exemption may continue to work in their role however a risk assessment will be undertaken in consultation with the worker and others, and appropriate control measures will be implemented for the safety of the worker, other workers and the workplace.

Can an exemption be secured on religious grounds?

No major organised religious group has officially discouraged the vaccine, and many have explicitly encouraged them.

There is currently no criteria within the Health Order for Religious Exemption.

Are there other alternatives to being vaccinated? e.g. additional PPE and regular surveillance testing.

The Order requires that no affected person may carry out their role unless they are vaccinated. We anticipate that there will be no exceptions (other than temporary medical exemptions) to being vaccinated, so steps such as additional PPE, social distancing, surveillance testing, and other measures will **not** be available as alternatives to being vaccinated. The most likely outcome is that if you are an affected person and are not vaccinated, you will not be allowed to perform your current role.

What if I can do my job from home - will I be covered?

Employers will need to consider all options for employees on a case by case basis. However, the Order does offer a provision for remote working as an alternative to vaccination for affected persons as long as they work completely remotely.

What will happen if I do not get the second dose or booster dose if eligible by the date in the Order?

Employers will work with you to determine the reason you have not been vaccinated by the required date. However, no affected person can perform their role from the dates specified if they are not vaccinated. You may explore other options, including unpaid leave or taking annual leave, if you are intending to receive your vaccination shortly after the dates set out in the Order.

If I do not wish to be vaccinated, will my organisation redeploy me to a new role?

If you are not vaccinated by the dates in the Order, your employer will consider redeployment options for you. However, given the broad coverage of the Order, it is very unlikely that any roles will exist that you may be redeployed to that will not also require you to be vaccinated. Each situation will be assessed on a case-by-case basis.

What will happen to me if I do not receive the vaccine and there are no suitable redeployment options?

After working through a fair process with you, if no suitable redeployment alternatives are identified then your employer may terminate your employment.

If my employment is terminated, what are my entitlements?

If, following a fair process, your employment is terminated, you will receive notice of termination in accordance with your employment agreement, and any outstanding holiday pay entitlements.

What is the HR process if a person refuses vaccination and can't be redeployed?

You are advised to seek support from an appropriate human resources or employment law professional to ensure you conduct the process in line with your legal obligations. You may also find the following sites useful:

<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>

What happens if I am on leave when the required vaccination dates occur?

Employees who are returning from leave are expected to have had 11.59 two vaccinations if this is after 11.59pm on 1 January 2022. Where this means that an employee will be unable to return on their previously expected return date, employers will discuss the options, including considering extending the leave period or granting a period of special leave. This is at the employer's discretion.

In the case of employees who are about to take parental leave and would prefer not to take the vaccine until after the baby is delivered, employers may consider the available options, including the early commencement of the leave period. Note that vaccination in pregnancy is highly recommended for the safety of the pregnant person and baby.

If I am feeling hesitant about taking the vaccine, what can I do?

We acknowledge that some people will have questions and will want to seek reassurance that taking the vaccine is safe. Please refer to <https://covid19.govt.nz/covid-19-vaccines/get-the-facts-about-covid-19-vaccination/covid-19-vaccination-your-questions-answered/>, speak to your trusted health professional such as a Medical Practitioner, Nurse Practitioner or Pharmacist, or call the COVID Vaccination Healthline on 0800 28 29 26 (8am to 8pm, 7 days). Translators are available if English is not your first language.

If I feel unwell after being vaccinated, can I take sick leave?

In most instances people who take the vaccine suffer only mild side effects. If, however, you feel unwell, then the sick leave provisions of your employment agreement will apply.

Will I be able to be vaccinated during work time?

Most employers will support you to be vaccinated during paid work time and will provide release time for this to occur.

I have had COVID-19 already and have a natural immunity as a result. Do I need to be vaccinated?

Yes, you should be vaccinated regardless of whether you already had COVID-19 because research has not yet shown how long you are protected from getting COVID-19 again after you recover from COVID-19 and vaccination helps protect you even if you've already had COVID-19.

If you currently have a PCR-confirmed SARS-Cov-2 infection, then you should completely recover from the acute illness before being vaccinated. Chronic symptoms following COVID-19 ("Long COVID") is not a contraindication to COVID-19 vaccine but does warrant a clinical discussion between the person and their medical practitioner / nurse practitioner regarding the benefits and risks.

Evidence is emerging that people get better protection by being fully vaccinated compared with having had COVID-19. One study showed that unvaccinated people who already had COVID-19 are more than 2 times as likely than fully vaccinated people to get COVID-19 again. If you were treated for COVID-19 with monoclonal antibodies or convalescent plasma, you should wait 90 days before getting a COVID-19 vaccine. Talk to your doctor or trusted medical professional if you are unsure what treatments you received or if you have more questions about getting a COVID-19 vaccine.

Are COVID-19 vaccinations covered by ACC (as a treatment injury)?

Yes

Will vaccination become part of an APC requirement?

That is a decision for the responsible authorities.

Will other vaccine be available or approved?

Alternative vaccines are being considered by MedSafe and some have already been approved. It is not confirmed when access to vaccines will other than Pfizer and Astra Zeneca be available in New Zealand. Exemptions will not be granted to those who choose to wait for an alternative vaccine.

Who will be liable if health & disability employees continue to work while unvaccinated?

Both employees and the PCBU/employer may receive infringements or fines of up to \$1000 per person if they do not comply with the Order.

What if I have been vaccinated overseas with a Vaccine other than Pfizer or Astra Zeneca?

To comply with this Order, you will need to provide evidence that you have been vaccinated by the due dates with an accepted vaccine. Accepted vaccines can be found [here](#).

Do family members who are employed or engaged to provide health care to whānau either outside of the worker's home or at their home need to be vaccinated?

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

Do family members of health and disability workers need to be vaccinated?

No, not if they are not a worker covered by the COVID-19 Public Health Response (Vaccinations) Order 2021.

Who can help workers who are unable to continue working in their current roles to find new employment?

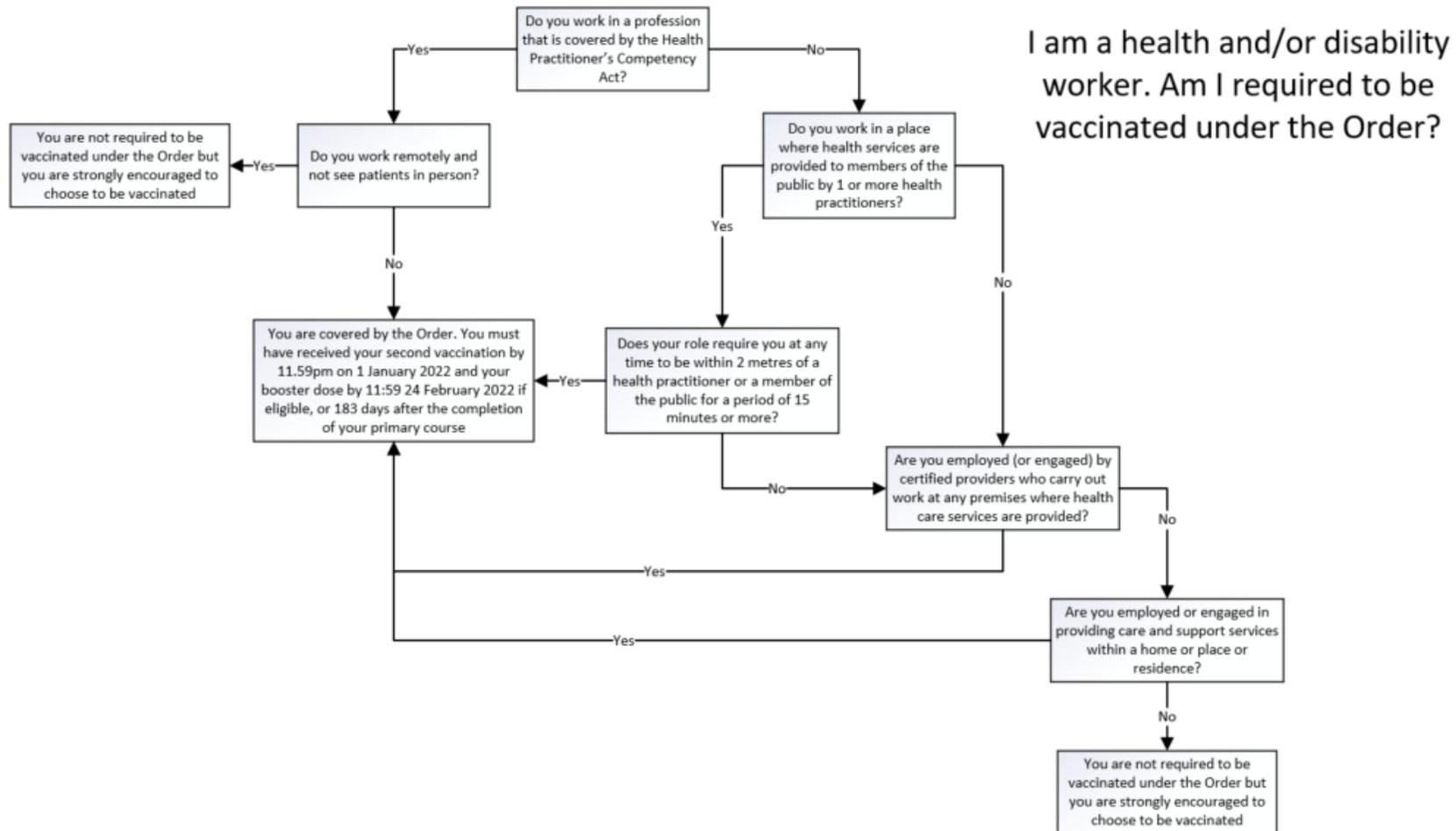
The Ministry of Social Development (MSD) is able to support impacted workers who are unable to continue working in their current roles and are unable to be redeployed by their employer. The regional teams can support people to look for and prepare for other work, by assisting them to update CVs and find jobs that match their skills. MSD also has a range of services and products that can also help people when they do find new work. PCBUs are encouraged to contact MSD to discuss employment support for those who they are unable to redeploy. MSD's regional teams can meet with people individually, or as a group if you have a large number of workers who may want to hear about the support MSD can provide before engaging with MSD one-to-one. If you get permission from your workers to pass on their details to MSD, we can make direct contact with them to discuss their individual situation and options. Email BWVO_Employment_Support@msd.govt.nz to be connected with the team in your region.

MSD also works closely with Te Kawa Mataaho, the Public Service Commission through its Workforce Mobility Hub to support public sector employees to identify other potential jobs within the public sector in their area that match their skills and interest. Public Service employers, who have unvaccinated workers who are unable to be redeployed or reach agreement do have a requirement to engage with the Public Service Commission.

How can I raise other questions?

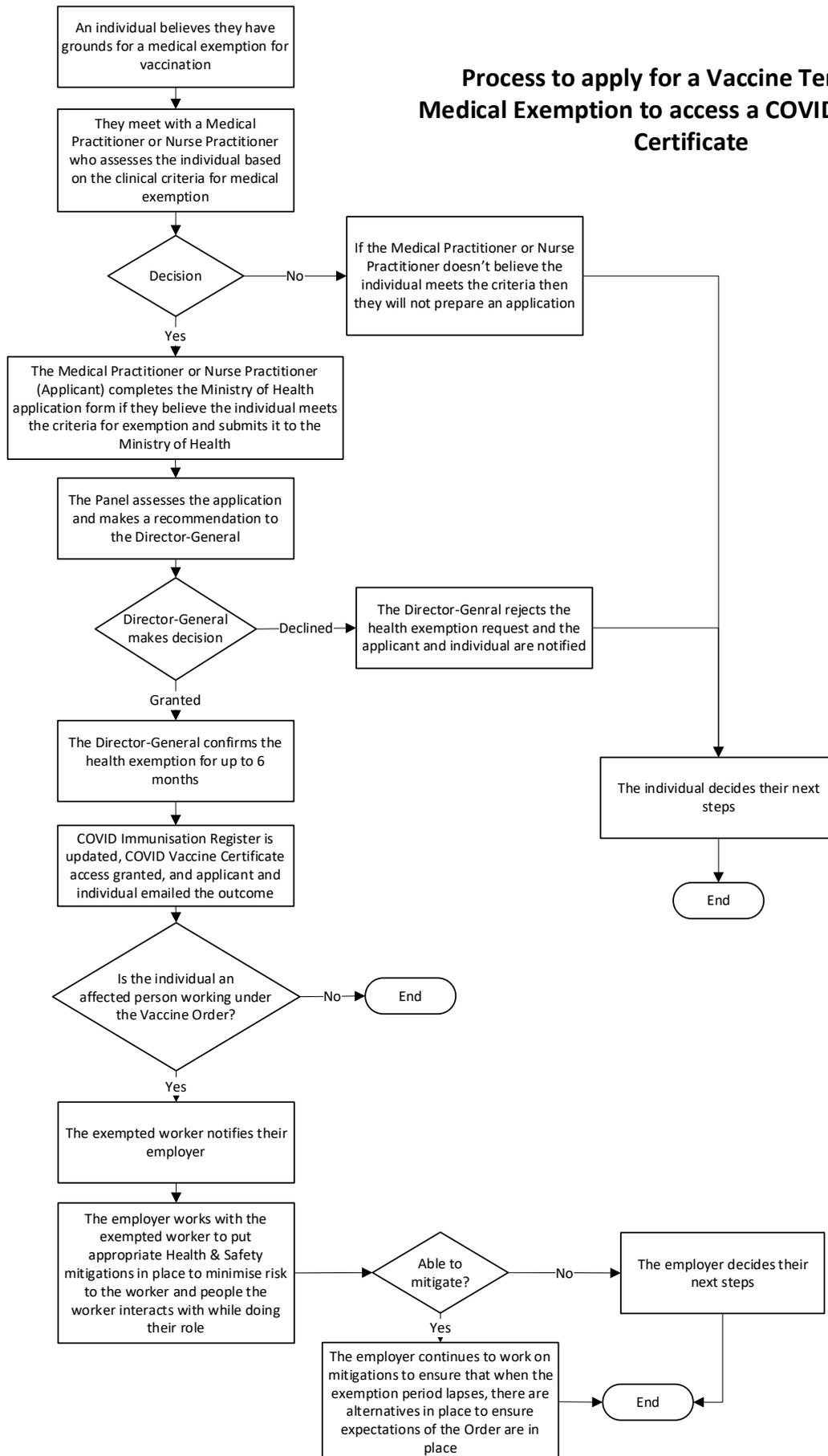
You can send additional questions to healthorders@health.govt.nz

Appendix 4 – Who is covered by the order

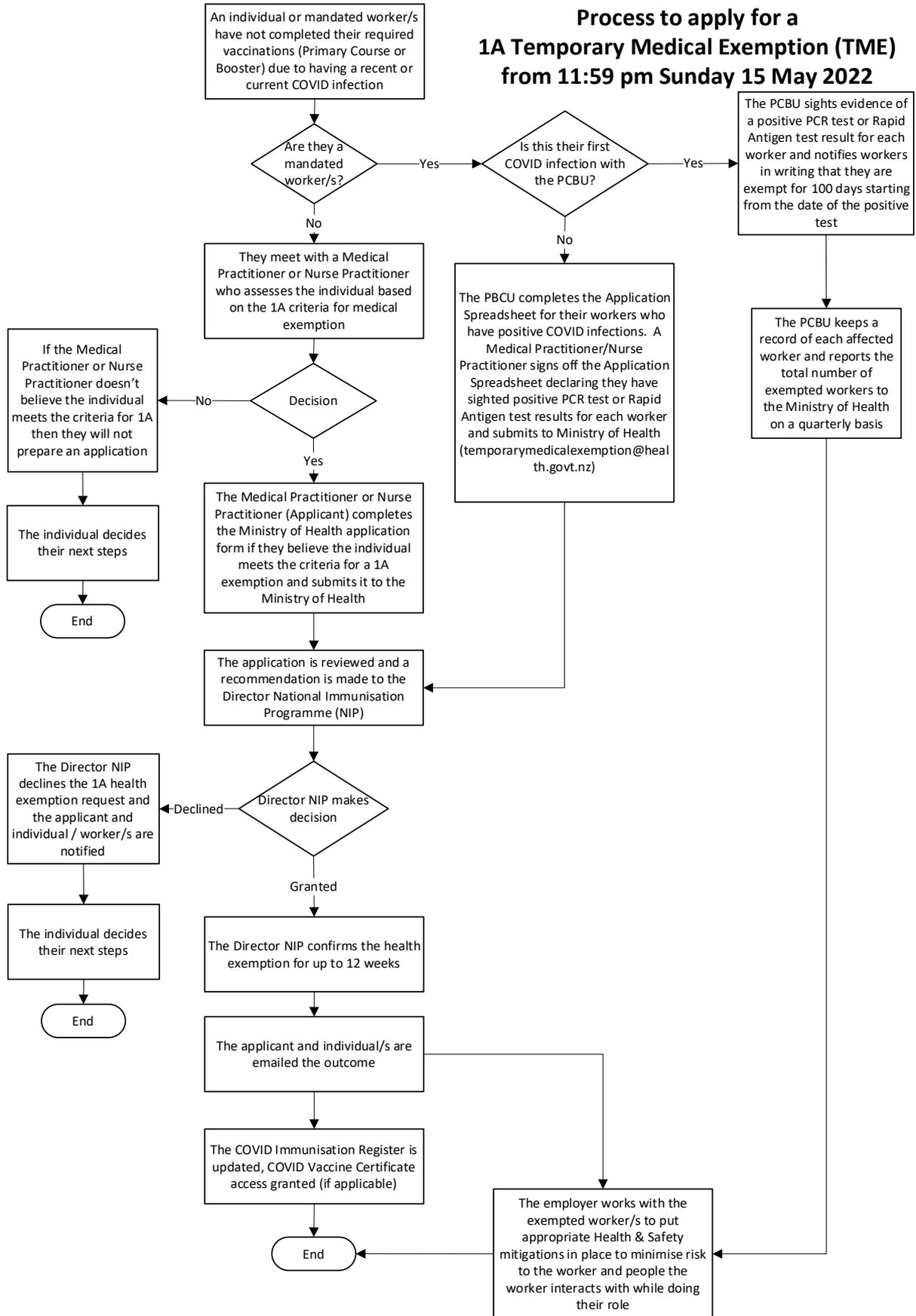


Appendix 5 – Exemptions Processes

Process to apply for a Vaccine Temporary Medical Exemption to access a COVID-19 Vaccine Certificate



Process to apply for a 1A Temporary Medical Exemption (TME) from 11:59 pm Sunday 15 May 2022



Health and Disability Sector Significant Service Disruption Exemption Process

