

The Traffic Light System and Vaccination Mandates for Hospitality, Retail, Gyms and Close-Proximity Businesses

On 3 December 2021, New Zealand moved into the COVID-19 Protection Framework. Northland, Auckland and specified areas of the North Island are now in Red, and the rest of New Zealand into Orange.

Vaccination of workers

The introduction of the COVID-19 Protection Framework has brought with it further amendments to the COVID-19 Public Health Response (Vaccinations) Order 2021.

From 3 December, all workers at food and drink businesses, close-proximity businesses, gyms, and permitted events (regardless of whether the work is carried out before people arrive at or leave the event) must be vaccinated. This is irrespective of whether that business chooses to require vaccine certificates from its customers and clients.

Affected workers must receive their first vaccine by 3 December 2021 and their second vaccine by 17 January 2022 in order to continue working.

COVID-19 Public Health Response (Protection Framework) Order 2021

Framework for "Designated" Premises: Vaccination Cannot Be Required From Customers or Clients

The COVID-19 Public Health (Protection Framework) Order 2021 (the Order) provides that customers or clients accessing "designated premises" (including **supermarkets, dairies, pharmacies and petrol stations**) must not be denied access because they are not vaccinated. Businesses may require persons accessing designated premises to enter through identified

access ways, but must not request them to produce a COVID-19 Vaccine Certificate or other evidence of being vaccinated for the purpose of accessing designated businesses or services.

COVID-19 Certificates (CVC)

The Order sets out the framework for businesses or services who have the discretion to require COVID-19 Vaccine Certificates (CVC) from their customers or clients. For the purposes of the Order, these businesses or services are referred to as "regulated businesses". This encompasses **food and drink businesses or services** (defined as businesses that sell, offer or provide food and drink for consumption), **close-proximity businesses or services** (defined as a business that cannot undertake its activities without physical contact or without being within 1-metre of a customer or client), and **gyms**.

Regulated businesses must choose to comply with all CVC rules or non-CVC rules at any one time. There is the option of alternating between operating under CVC rules and non-CVC rules, but the business must have appropriate systems in place (such as routine cleaning between alternating), to mitigate the risk of spreading COVID-19.

Regulated businesses must display signs indicating whether they require a COVID-19 vaccination certificate (CVC) from customers or clients upon entry.

If Your Business Has Opted In For Requiring CVCs from Customers or Clients:

ORANGE

Regulated businesses who choose to require CVCs from visitors must have appropriate systems in place for checking that each person who enters their premises, including workers, is carrying a CVC. The exception to this is individuals with a valid medical exemption or those who it is

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reasonable to believe are under the age of 12 years and 3 months.

Guidance from the Ministry for Business, Innovation and Employment provides that sighting an individual's CVC is enough for compliance, but scanning using the Pass Verifier app is strongly recommended.

RED

The rules for regulated businesses under Red are the same as under Orange, though with the additional requirement to ensure the number of people in a defined space at any one time does not exceed the lesser of the maximum number of people who could occupy the space while maintaining a 1-metre physical distance from others, or 100 people.

If Your Business Has Opted Out of Requiring CVCs from Customers or Clients:

ORANGE and RED

Food and drink businesses who choose *not* to require CVCs may only provide contactless services. The business must have appropriate systems in place to ensure that visitors collect their purchase through a method that minimises physical contact. For businesses operating out of a building, this means the visitor cannot enter at all. For businesses operating out of a shopping mall, this means the visitor can enter the shopping mall, but not the individual store.

Close proximity businesses and gyms who choose *not* to require CVCs may not allow any customer or client to enter the premises at all.

Physical Distancing

ORANGE

Under Orange, physical distancing rules contained in the Order do not apply to regulated businesses.

Retail businesses must ensure the number of people within their defined space at any one time does not exceed the maximum number of people who could occupy the space if each person were to maintain a 1-metre physical distance from others.

RED

Under Red, food and drink businesses and close-proximity businesses must ensure the number of people within their defined space at any one time does not exceed the lesser of the maximum number of people who could occupy the space if each person were to maintain a 1-metre physical distance from others, or 100 people.

Retail businesses must ensure the number of people within their defined space does not exceed 100 people at any one time.

Face Coverings

ORANGE and RED

Face coverings are mandatory for customers or clients at retail businesses, but not at regulated businesses.

Workers at food and drink businesses or close-proximity businesses must wear a mask only when working with customers or clients. Workers at retail businesses need only wear a mask when in the public facing parts of the workplace.

At both retail businesses and regulated businesses, workers are not required to wear masks when only in the presence of other workers.

It is the business' responsibility to ensure it has appropriate systems in place to ensure its workers comply with face covering requirements.

QR Codes and Contact Records

ORANGE and RED

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As is the case under the outgoing Alert Level system, all businesses and workplaces must display a QR code in a prominent place for the purposes of contact tracing. Businesses and workplaces must also offer an alternative contact tracing system.

Close proximity businesses or services, courts and tribunals, food and drink businesses or services, gyms, health services, public facilities and specified social services must have systems and processes to ensure people entering the workplace scan the QR code or provide a contact record with the alternative contact record system.

Want to know more?

If you have any questions about how the COVID-19 Protection Framework affects you, please contact our specialist [Employment Team](#).