

Vaccination exemptions—no easy out for unvaccinated employees

Unvaccinated employees who are subject to a mandatory vaccination order will now find it is no longer a simple matter of finding a medical practitioner to certify they should not be vaccinated.

It is now mandatory that certain roles only be performed by vaccinated workers. The recently amended Vaccinations Order now applies to those in the health and disability sector, prison workers, and education workers. The Order also continues to apply for border workers and those working in MIQ facilities.

Health and education workers are required to have had their first dose of a COVID-19 vaccine by 15 November 2021, and have had their second dose by 1 January 2022.

Until 7 November 2021 there was an ability for a worker who was unwilling or unable to be vaccinated to continue to work if they produced an exemption. An exemption could be provided by a suitably qualified health practitioner who, in examining the worker, determined that worker had particular physical or other needs that would make it inappropriate for them to be vaccinated.

The wording of the previous exemption rule was broad and, perhaps unsurprisingly, meant many affected workers were producing vaccine exemptions for a variety of different health conditions and other reasons.

As at 8 November 2021, any previously granted 'exemption' is now invalid.

Since 7 November 2021 there is now a set process for obtaining an exemption from mandatory vaccination. Medical exemptions are temporary only, and can only be valid for a maximum period of six months. The new exemption application process is formal and requires:

- the unvaccinated worker to be examined by a suitably qualified medical practitioner or nurse practitioner;
- the medical practitioner to determine (based on set clinical criteria) that the unvaccinated worker meets the clinical criteria;
- the medical practitioner to apply to the Ministry of Health on behalf of the unvaccinated worker (with evidence, if required);
- the Ministry of Health (for the Director-General) to consider the exemption application; and
- the Ministry of Health to decide whether the unvaccinated worker meets the criteria, and to accept or reject the application.

If the application is rejected the unvaccinated worker would be required to then be vaccinated, or will be unable to continue working in their existing role.

We anticipate there will now be very few vaccination exemptions granted.

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