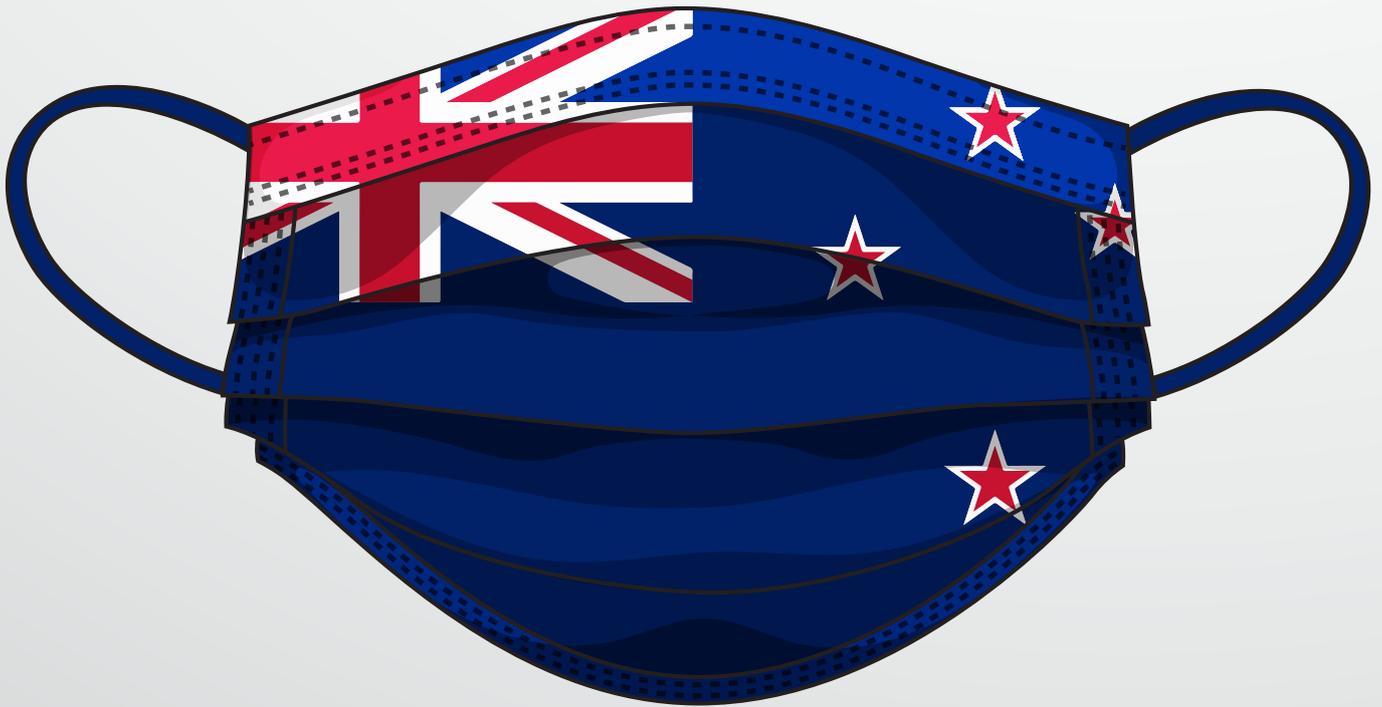


THE DELTA DIFFERENCE

New Zealand's Covid-19 construction protocols have been updated to reflect the vaccination rollout and the highly infectious nature of the Delta variant. *NZ Plumber* looks at Delta's key impacts on plumbing, gas and drainage businesses and the work they do.



The Covid-19 Delta variant is now the main variant across the world—and it's the most transmissible yet. One person with Delta is estimated to infect on average five or six other people. Delta can also cause people to develop more serious Covid-19 illness than other variants and infected people appear to carry much more virus and for a longer period than those infected with the original virus or other variants.

1 Updated protocols

The construction industry's Covid-19 protocols for vertical & horizontal and residential construction sites have been updated to reflect Delta's extremely contagious nature and the fact that vaccinations are being rolled out.

Alert Level 4 and 3 protocols for residential construction sites, for example, state: "The business owner should encourage workers to become vaccinated at the earliest opportunity by communicating with them using material from the Government website [see below]. Business owners are encouraged to provide time off work for their workers to become vaccinated."

The updated residential protocols also note that face covering usage must be according to Ministry of Health requirements. These protocols are live documents, so always check the CHASNZ website to make sure you are using the most up-to-date versions.

- Find the protocols at chasnz.org/covid19
- Find vaccine information at covid19.govt.nz/covid-19-vaccines

COVID-19 Health and Safety Protocols for New Zealand Residential Construction Sites

Purpose: The COVID-19 Health and Safety Protocols for Residential Construction Sites outlines the minimum standards to be implemented at residential construction sites to manage risk of COVID-19 transmission on site. These Protocols apply at Alert Level 3. These Protocols supplement the *COVID-19 Standard for Operating New Zealand Construction Sites* developed by CHASNZ.

OUR COMMITMENT AS AN INDUSTRY:

- We are committed to working alongside Government to prevent the spread of COVID-19.
- As an industry, we are united against COVID-19 and will do our utmost to protect our workers, the wider community, and New Zealand.
- We know that we're in this together – this means trusting that those we work with will keep us safe and that we'll do the same for them.
- We recognise that we must work together to ensure the health, safety, and wellbeing of everyone in the supply chain.

DEVELOPED BY:



With support from:



Version 8 | 2 Sept 2021

Alert Level 4, 3 and 2 Covid-19 health and safety protocols have been updated in 2021 to reflect the highly transmissible nature of the Delta variant, and the availability of vaccines. These are living documents, so always check the CHASNZ website to ensure you are using the latest versions.

Extended timeline for construction MIQ places

The allocation of 60 MIQ places per month for construction has been extended to March 2022. The allocation is for critical workers whose work is essential for infrastructure and building projects of national and regional significance—and who have unique experience or technical or specialist skills not readily available in New Zealand.

Employers can apply for construction MIQ places on the Construction Sector Accord's website:

www.constructionaccord.nz/covid-19/groupallocation

2 Vaccinations

Master Plumbers advocated strongly for our industry to get priority access to Covid-19 vaccinations as essential workers—and it eventually worked. In early September, the Government announced that tradespeople carrying out essential work, or who might be required to do so, could book priority vaccinations by calling the COVID Vaccination Healthline.

Vaccinations are now available to everyone aged 12 and over, and there are many walk-in and drive-through vaccination centres where you can get vaccinated without needing an appointment. Find your nearest at the Healthpoint website (see below). The Ministry of Health is also advising that New Zealanders consider reducing the gap between first and second doses to 3 weeks or over, rather than 6 as previously.

Construction protocols note that business owners should be encouraging workers to get vaccinated by sharing vaccination facts with them from the covid19.govt.nz website, and are also encouraged to give workers time off to get vaccinated.

Whilst the vaccine doesn't stop people getting Covid-19, with two doses you are far less likely to fall seriously ill or to transmit the virus. Getting vaccinated doesn't mean you can do away with other Covid-19 health and safety advice, such as mask wearing, social distancing, hand washing and staying home if sick.

- www.healthpoint.co.nz/covid-19-vaccination
- bookmyvaccine.covid19.health.nz
- COVID Vaccination Healthline: **0800 28 29 26**

3 Face coverings

Face covering requirements have been updated in 2021, with everyone in New Zealand encouraged to wear a face covering at Alert Level 1, when physical distance from others can't be maintained. At this level, a face covering must legally be worn on public transport and flights.

At Alert Levels 2, 3 and 4, a face covering and 2m distancing is now encouraged whenever leaving home. There are also legal requirements to wear a face covering in a number of situations, including for those whose job includes customer contact.

Find face covering updates at covid19.govt.nz/health-and-wellbeing/protect-yourself-and-others-from-covid-19/wear-a-face-covering/

4 Contact tracing

In early September, it became mandatory for everyone in New Zealand to keep a record of their whereabouts, either through the NZ COVID Tracer app or using paper-based registers. By turning >>>

on Bluetooth on your mobile, you will also get an alert if you have been near another app user who tests positive for Covid-19.

In early October, three changes came into effect for business QR code poster display requirements:

1. You must display your QR code at the main entrance **as well as** in other places throughout your business.
2. Posters must be kept in a good condition to ensure they can be scanned easily.
3. The official Ministry of Health QR code poster must be used, and not altered in a way that makes it unclear it has been issued by the government for contact tracing purposes.

Find contact tracing information at covid19.govt.nz/health-and-wellbeing/contact-tracing

5 Travel

Travel between boundaries is restricted and for essential purposes only. Workers need to show proof that they have had a recent Covid-19 test before crossing a boundary, and businesses must provide their workers with proof of eligibility to travel across boundaries, such as the documentation at MBIE's Business Travel Register.

- Apply for Business Travel Documents at businessconnect.govt.nz
- Find latest boundary information at www.business.govt.nz/covid-19/business-travel-across-alert-level-boundaries

6 Financial support

As with earlier lockdowns in Auckland and the rest of New Zealand, financial support is available to impacted businesses.



When Alert Level regional boundaries are in place, essential workers must have official documentation to travel across them—and are now also required to show evidence that they have had a test in the previous seven days.

Wage Subsidy

Businesses who couldn't operate or who expected a 40% drop in revenue due to the lockdown could apply for the Covid-19 Wage Subsidy August 2021 schemes—\$600 per week for each full-time employee or \$359 per week for each part time employee.

Resurgence Support Payment

Covid-19 Resurgence Support Payment is also available as a one-off payment to help cover wages and fixed costs for businesses directly affected when there is an increase to Alert Level 2 or higher for a week or more.

To be eligible, your business must have experienced at least a 30% drop in revenue or a 30% decline in capital-raising ability over a 7-day period, due to an increase in Alert Levels.

- You can receive \$1,500 per business plus \$400 per full-time employee (FTE), up to 50 FTE.

- The maximum payment is \$21,500.
- If you're a sole trader, you can receive a payment of up to \$1,900.

Small Business Cashflow Loan

Those employing 50 or fewer staff may be able to apply for the Small Business Cashflow Loan Scheme—a one-off 5-year loan. You can borrow up to \$10,000 plus \$1,800 per full-time-equivalent employee within your business if you have experienced a minimum 30% decline in actual or predicted revenue over a month, compared with the same month last year. Loans will be interest free if they are paid back within 2 years. The interest rate is 3% for a maximum term of 5 years. Applications are open until 31 December 2023 through myIR.

Find available financial support information at covid19.govt.nz/business-and-money/financial-support/financial-support-for-businesses

MASTER PLUMBERS ADVOCACY & RESOURCES

Master Plumbers continues to update members on latest Covid-19 developments and resources. Joining the Master Plumbers Facebook Group is a great way to get up-to-the-minute news and to get your questions answered.

Members can also access the dedicated Covid-19 web page in the log-in area of the website at www.masterplumbers.org.nz

Recently added resources include a template employee Covid-19 policy for members to use in their businesses and a vaccination risk management flowchart.

Master Plumbers also plays a major role in industry advocacy. Recent examples include lobbying the Government for:

- priority vaccines for tradespeople carrying out essential work
- opening up construction product supply restraints whilst Auckland was at Alert Level 4 and construction sites in the rest of NZ were able to operate again at lower alert levels.

With most manufacturers and suppliers based in Auckland, this presented a major barrier to getting construction up and running again. When MBIE opened up an application process for critical construction product supply, Master Plumbers supported key plumbing, gas and drainage product suppliers in working through the process.

Are you a Master Plumbers member?

- Join the Covid-19 Facebook Group at www.facebook.com/groups/MasterPlumbersNZ
- Find information and resources on the dedicated Covid-19 web page at www.masterplumbers.org.nz (log in to view)
- Call Lisa Duston on the HR Helpline for business-specific Covid-19 queries: **021 245 1704**.

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COVID-19 VACCINATIONS:

What employers need to know

Olivia Lund of law firm *Duncan Cotterill* answers 6 frequently asked questions about Covid-19 vaccinations in the workplace.

With over 3 million first doses of the Covid-19 vaccine administered in New Zealand by late September, as *NZ Plumber* went to print, vaccination is both a live and novel issue in the workplace.

Employers are required to balance health and safety obligations against employees' human rights and privacy when it comes to their Covid-19 vaccination status. Considering these are, at times, competing interests, we address what can and cannot be done regarding workers' vaccination against Covid-19.

1 Can employers require workers to be vaccinated?

Employers cannot require any individual worker to be vaccinated. Under the New Zealand Bill of Rights Act 1990, every person has the right to refuse medical treatment, which includes vaccination. However, there are select roles where vaccination is required to be able to perform the work.

At present there are very few types of work where vaccination is or would be required in New Zealand. But this could

change if our domestic Covid-19 situation altered significantly.

Generally, vaccination is required where the work is:

- covered by a Health Order; or
- otherwise specified by the Government; or
- where a risk assessment shows there is a high chance of getting and/or infecting others with Covid-19 (we discuss this further below).

For example, the Government has made it mandatory under the Public Health Response (Vaccinations) Amendments Order 2021 for border workers to be vaccinated.

Where vaccination is required for a role, it is important that employers address barriers to accessing vaccinations and set timeframes on when this should be completed by.

2 How can an employer assess whether a role needs to be done by vaccinated workers?

In order to determine whether a role must be performed by vaccinated workers, employers need to conduct a risk assessment for exposure to Covid-19. This

assessment applies to all workers, both employees and independent contractors. Employers must consider:

- The likelihood of exposure to Covid-19 while performing the role; and
- Potential consequences of exposure on others (ie, community spread).

If an employer concludes there is a high risk of exposure and there would be significant potential consequences of exposure on others, then the role must be performed by a vaccinated worker.

Employers must also involve workers, unions and other representatives in the risk assessment process, and when deciding how to minimise or eliminate risks of exposure to Covid-19.

3 Are employees entitled to be paid for their time off work to get a vaccination?

While there is no strict legal requirement for employees to be paid for their time off to get a vaccination, the Government is encouraging businesses to support the vaccination programme by:

- allowing staff to access vaccination centres during work hours;

- not requiring the use of annual leave, or deducting wages, for time off to get vaccinated; and
- facilitating on-site vaccination where appropriate.

Where vaccination is required for the role, employers should consider providing special leave for this purpose. The use of annual leave or other leave for time off to be vaccinated must be agreed to by both parties as per normal employment processes.

4 Can employers ask an employee or potential employee to tell them if they have been vaccinated?

Health information is personal information under the Privacy Act. As such, employees or potential employees cannot be required to inform their employer of their vaccination status. There is an exception to this general position where an employee is working in a role that requires vaccinated workers.

Employees cannot be disadvantaged for not disclosing their vaccination status and employers should be mindful not to discriminate on this basis.

Where an employee has not disclosed their status or failed to provide proof that they have been vaccinated, employers may consider that the employee is unvaccinated. It is important that this is communicated to the employee, especially if there will be consequences regarding their employment if they are to be treated as unvaccinated.

5 Can employers dismiss their employees if they refuse to be vaccinated?

If the employee works in a role where vaccination is not required, they cannot be dismissed for refusing to be vaccinated.

If an employee works in a role where vaccination is required but they refuse to be vaccinated, dismissal should be the last resort. Alternative options that should be looked at prior to a dismissal include:

CONSIDER YOUR APPROACH

Vaccination status can be a sensitive subject, so employers should carefully consider their approach when discussing this with workers. It is important to stick to the issue of vaccination only and not make enquiries about things you do not need to know—for example if an employee’s religious beliefs prevent them from being vaccinated.

A person’s vaccination status is private, and employers should be mindful to keep this information secure. Collecting, storing and accessing personal information carries obligations under the Privacy Act and any disclosures should be managed in line with the Act’s requirements.

Overall, obligations of good faith and following full and fair processes under the Employment Relations Act 2000 continue to apply to Covid-19 related issues, including vaccination. In this case employers must balance obligations under the New Zealand Bill of Rights Act, Employment Relations Act, Privacy Act and Human Rights Act.

- changing the employee’s work arrangements, such as the location of work and hours;
- whether a period of leave would be appropriate (eg, if the employee is pregnant and does not wish to be vaccinated during pregnancy); and
- restructuring or transferring the employee to another role.

Usual employment law obligations to follow a lawful process and consult with the employee and their representatives remain. Employers are not able simply to add vaccination clauses into existing employment agreements without following proper risk assessment and consultation processes.

6 Can new employment agreements include a vaccination requirement?

The Ministry of Business, Innovation and Employment (MBIE) has recently advised that confirmation of an employee’s vaccination status could be included in a new employment agreement. However, this would only be strongly justifiable if the role is required to be performed by a

personal information carries obligations under the Privacy Act and any disclosures should be managed in line with the Act’s requirements.

Overall, obligations of good faith and following full and fair processes under the Employment Relations Act 2000 continue to apply to Covid-19 related issues, including vaccination. In this case employers must balance obligations under the New Zealand Bill of Rights Act, Employment Relations Act, Privacy Act and Human Rights Act.

vaccinated worker after a risk assessment has been completed.

While there appears to be more scope to include a vaccination requirement in new employment agreements, a cautious approach should be taken when making this a condition for new employees, as employers could be exposed to discrimination claims if reasonable exceptions and accommodations are not provided for prospective employees who have a genuine and lawful reason not to be vaccinated. 📌

Disclaimer: the content of this article is general in nature and not intended as a substitute for specific professional advice on any matter and should not be relied upon for that purpose.



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