



FOOD ACT 2014

Verification and evaluation under the COVID-19 Protection Frame work

Unite
against
COVID-19

This document sets out the Ministry for Primary Industry's (MPI) expectations of recognised agencies, verifiers and evaluators who will be carrying out Food Act 2014 activities under the COVID-19 Protection Framework more commonly known as the traffic light system.

It has been written to enable services under the Food Act to be maintained during the COVID-19 response. It aligns with, and does not replace, advice from the lead agencies dealing with COVID-19 management.

It also aligns with information provided by MPI for verification of export businesses.



RED



ORANGE

(Updated: 21 December 2021)

THE KEY ELEMENTS OF THE COVID-19 PROTECTION FRAMEWORK

The key elements of the COVID-19 Protection Framework include:



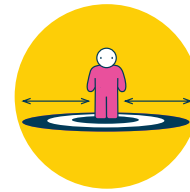
COVID-19 vaccination certificates



Capacity limits



Limited purpose gatherings and outdoor gatherings



Physical distancing



Use of QR codes and contact records



Restriction on access to certain businesses and services



Restrictions on opening, operating and movement



Face coverings and Personal Protective Equipment (PPE) at different settings

The measures recognise different regions may have different levels of COVID-19 community transmission; and consider the capacity of the health system in those areas to manage infection.

At the onset of the transition to the COVID-19 Protection Framework, cross-boundary travel rules for Auckland remain essentially the same as those that were in force under the Alert Level system.

MPI's expectations of Recognised Agencies and Persons

MPI has a vaccination policy for all MPI staff, contractors, and people visiting MPI sites. This policy currently does not extend to verifiers and evaluators who are not employed by MPI, but who visit food businesses and carry out activities on behalf of MPI under the Food Act 2014. Employers of these people will need to meet Health and Safety and COVID-19 rules.

MPI strongly urges Recognised Agencies to have a vaccination policy to manage COVID-19 risks to staff and customers. You can find the MPI policy and the MPI COVID risk assessment in the Food Academy in the COVID-19 section.

Recognised Agency COVID-19 policies need to consider the key elements of the COVID-19 protection framework. This is especially important if customers include aged care facilities and other places where elderly, very young, and immunocompromised people may be encountered. The policy needs to enable verifiers and evaluators to work with customers to agree and follow practices that keep people safe; and control the spread of COVID-19.

Verifiers, Evaluators and Recognised Agencies will also need to be aware of the impact on cross-boundary travel under the protection framework. [Schedule 8](#) of the Health Order contains the current cross-boundary rules that apply.

There is also information available at: <https://covid19.govt.nz/alert-levels-and-updates/covid-19-protection-framework/>

Key principles for verification and evaluation activities at all COVID-19 protection framework settings

Verification and evaluation are requirements of the Food Act 2014. MPI expects the following activities to take place on-site at Food Act businesses unless there is a valid reason not to.

- The reality check component of an evaluation,
- The reality check component during initial, routine and unscheduled verifications,
- Follow up of critical non-compliances and conditions of registration requiring an on-site check.

Valid reasons not to carry out these activities on-site include:

- The verifier/evaluator and/or the food business are in an area that is in lockdown to control high rates of COVID-19 transmission, *or
- Travel restrictions are in place, * or
- The verifier/evaluator or food business staff are isolating or confirmed with COVID-19,* or
- The verifier and food business are unable to agree on a procedure that will minimise the risk of transmitting COVID-19 during the verifier or evaluator's visit,** (See also FAQs), or
- The food business meets the criteria for, and is offered, a remote verification by a Recognised Remote Verifier.

*Initial and routine verifications of template food control plans and national programme businesses may be carried out remotely by Recognised Remote Verifiers. MIQ facilities may be either remotely verified or remotely checked.

** If no reasonable agreement for mitigating the risk from COVID-19 transmission can be reached, refer the business to their registration authority.

FREQUENTLY ASKED QUESTIONS:

Must I be vaccinated to carry out duties under the Food Act 2014?

Government policy uses a vaccination strategy to mitigate the spread and impact of COVID-19. People working for, contracting to, and visiting NZFS/MPI sites will need to show their vaccination passport before being allowed in. The MPI vaccination policy does not apply to other people working on behalf of NZFS/ MPI to carry out services or activities. However, their employers will need to meet Health and Safety and COVID-19 rules.

Currently the rules for who must be vaccinated to work can be found at: [Mandatory vaccinations for workers | Unite against COVID-19 \(covid19.govt.nz\)](#)

MPI strongly urges Recognised Agencies to have a vaccination policy to manage COVID-19 risks to staff and customers. You can find the MPI policy and the MPI COVID risk assessment in the Food Academy in the COVID-19 section.

What are the rules relating to travel across regional boundaries (red to orange or vice versa)?

Restrictions on travel appear in the schedules to the Order. Schedule 8 - travelling in and out of extended Auckland area - covers the cross-boundary rules that currently apply. Schedule 8 will be updated as travel restrictions change.

See also: [Personal travel across the Auckland boundary | Unite against COVID-19 \(covid19.govt.nz\)](#)

If I'm a fully vaccinated person carrying out duties under the Food Act 2014 do I have to go into a food business where there are unvaccinated staff? What does a verifier do if the food business has no policy for COVID-19 measures?

MPI have sought policy advice on this and can confirm the following.

Where there is a regulatory requirement, such as for verification, this becomes a primary duty, and the Food Act is the principal legislation that applies. Other legislation - such as Health and Safety, and the COVID-19 provisions – identify measures to help keep people safe while performing their duty.

When planning to go on-site, discuss with the business and your employer the best options that can be put in place during your visit to reduce COVID-19 transmission risks. Some risk factors to consider are:

- Is the business operating indoors or outside?*
- Can only the vaccinated people at the business be present during the visit?*
- Can distancing between people be maintained during the visit?*
- Can the numbers of people likely to be in close proximity be kept to a minimum?*
- Can cleaning be completed (if operating a dual CVC/ non-CVC business model)* prior to the visit?*
- Are staff present at the business wearing the correct PPE?*

**MPI are aware that some businesses may offer access to vaccinated and unvaccinated people at different times of the day/ on different days of the week, with cleaning at the end of unvaccinated trading. In these instances, work with the business to visit at times when*

the risks can be lessened, while still being able to carry out the purpose of the visit.

There is a Worksafe tool to help decision-making at: [How to decide what work requires a vaccinated employee and WorkSafe's enforcement approach | WorkSafe](#)

If no reasonable agreement for mitigating the risk from COVID-19 transmission can be reached, refer the business to their Registration Authority.

If I am unvaccinated, can I go into a food business complying with COVID-19 Vaccination Certificate (CVC) rules?

No.

Can a food business require proof of a negative COVID-19 test as well as full vaccination?

No, a COVID-19 test is not required under the current order (December 2021).

Note that some businesses may opt for a negative test result as well as proof of vaccination before allowing people on site.

There are some export markets driving the requirement for tests in addition to being fully vaccinated.

I'm a verifier, what do I do if a food business is not compliant with COVID-19 measures (exceeding maximum number of people, no distancing as required etc), who can I report this to?

The process for reporting a breach of COVID-19 requirements is at: <https://covid19.govt.nz/alert-levels-and-updates/report-a-breach/>

Who does a verifier tell if the food business won't let me on-site to do the reality check component of the verification (and there is no valid reason not to)?

If the Recognised Agency is unable to persuade the operator, please report the matter to the Registration Authority.

What does a verifier do if the reality check component of the verification can't be done on-site (as per list of valid reasons), can it be deferred and if so for how long?

Deferring verification is a last resort, and guidance provides some options when there are valid reasons for not going on-site.

APPENDIX 1

THE COVID-19 PUBLIC HEALTH ORDER AND HOW IT WORKS

(FROM THE 'EXPLANATORY NOTES' TO THE ORDER)

The Order: COVID-19 Public Health Response (Protection Framework) Order 2021 (SL 2021/386) – New Zealand Legislation: www.legislation.govt.nz/regulation/public/2021/0386/latest/LMS563461.html

The COVID Protection Framework: COVID-19 Protection Framework | Unite against COVID-19 (covid19.govt.nz): covid19.govt.nz/traffic-lights/covid-19-protection-framework/

Background

New rules for combatting COVID-19 have been issued by the COVID-19 Public Health Response (Protection Framework) Order 2021 which came into force at 11.59 pm on 2 December 2021. It establishes the COVID-19 Protection Framework for New Zealand; and replaces the earlier COVID-19 Alert Level system.

The Protection Framework uses a 3-level approach, the 'traffic light' system, of Green, Orange, and Red, with restrictions increasing as an area moves from Green up to Red.

It provides a wider range of public health measures, including those that were used under the Alert Level system (such as face covering requirements) as well as new measures (such as COVID-19 vaccination certificate (CVC) requirements). The COVID-19 provisions in the order only have legal effect if they are made active by being specified in a relevant schedule (a **COVID-19 response schedule**)

COVID-19 response schedules

The current COVID-19 response schedules are as follows:

- [Schedule 5](#), which sets out the COVID-19 provisions that apply at Green:
- [Schedule 6](#), which sets out the COVID-19 provisions that apply at Orange:
- [Schedule 7](#), which sets out the COVID-19 provisions that apply at Red:
- [Schedule 8](#), which establishes the cross-boundary rules that currently apply.

New COVID-19 response schedules may be added over time, as needed, to provide a tailored response to a particular situation. For example, a localised lockdown schedule may be required if there is a rapid growth in cases in an area.

Each COVID-19 response schedule is structured in the same way, as follows:

- Part 1 describes the area (if any) to which that schedule applies:
- Part 2 lists the COVID-19 provisions that apply to that area:
- where relevant, Part 3 specifies the COVID-19 provisions that apply as a result of a business or service choosing to operate with or without COVID-19 vaccination certificates (the **CVC rules** and **non-CVC rules**).

In some cases, a schedule may specify modifications to a particular COVID-19 provision. Those modifications apply only to the area described in Part 1 of that schedule.

Types of COVID-19 provisions

What's the same?

Many of the COVID-19 provisions are substantially the same as the equivalent requirements under the Alert Level system. These include requirements relating to the following:

- QR codes and contact records (see [subpart 1](#) of Part 2):
- face coverings (see [subpart 2](#) of Part 2):
- physical distancing (see [subpart 4](#) of Part 2):
- limited purpose gatherings (previously, “controlled gatherings”) and limited outdoor gatherings (see [subpart 5](#) of Part 2):
- restrictions on access to certain businesses or services (see [subpart 7](#) of Part 2):
- restrictions on when certain businesses or services may open (see [subpart 8](#) of Part 2):
- restrictions on how certain businesses or services may operate (see [subpart 9](#) of Part 2):
- restrictions on movement, including stay-at-home orders and cross-boundary travel rules (see [subpart 10](#) of Part 2).

In addition,—

- the cross-boundary travel rules for Auckland are, at this stage, essentially the same as those that were in force under the Alert Level system (see [Schedule 8](#)); and

What's new?

The Protection Framework contains new requirements relating to the following:

- COVID-19 vaccination certificates, or CVCs (see [subpart 3](#) of Part 2):
- capacity limits (see [subpart 4](#) of Part 2):
- gatherings and events (see [subparts 5](#) and [6](#) of Part 2).

CVC (COVID-19 Vaccination Certificate) requirements

The Protection Framework establishes new requirements that relate to the use of CVCs to regulate access to businesses or services (including events that they organise) and to gatherings.

Certain businesses or services (regulated businesses or services) must choose between operating either with or without CVCs. These businesses or services are regulated because their operations present a higher risk of COVID-19 transmission. If they choose to operate without CVCs, restrictions will apply. In some cases, they may have to close their premises to customers and clients.

By contrast, businesses or services that operate from certain premises (designated premises) are prohibited from operating with CVC restrictions. These include supermarkets, health services, and most public transport services (see [clause 10](#)). Such businesses or services must not deny a person entry to the premises or access to services on vaccination grounds (see [clauses 31](#) and [32](#)).

Regulated businesses or services

[Clauses 25](#) to [27](#) set out the rules relating to regulated businesses or services. In summary,—

- a business or service is a regulated business or service if it is specified as such by [clause 25](#) (see the item relating to [clause 25](#) in the relevant COVID-19 response schedule):
- a regulated business or service must choose to operate under either CVC rules or non-CVC rules (see [clause 25](#)), and must communicate that choice at the main entrance of the premises (see [clause 26](#)):
- if a regulated business or service chooses to operate under CVC rules, it must—
 - have systems and processes in place to check that each person at the premises is carrying a CVC (see [clause 27\(1\)\(a\)](#)); and

- have systems and processes in place to verify, so far as is reasonably practicable, in relation to a reasonable number of people, that those CVCs are valid and have been issued to the person in question ([see clause 27\(1\)\(b\)](#)); and
- comply with any other requirements specified as part of the CVC rules for that type of business or service (see Part 3 of the relevant COVID-19 response schedule):
- if a regulated business or service chooses to operate under non-CVC rules, the restrictions specified as part of the non-CVC rules for that type of business or service apply (see Part 3 of the relevant COVID-19 response schedule):
- a regulated business or service may alternate between operating under CVC rules and non-CVC rules at its premises, but must comply with certain requirements when alternating between the two ([see clause 25\(2\)](#)).

If a regulated business or service displays a sign indicating that it is operating under CVC rules, a person who enters the premises must produce their CVC on request ([see clauses 29 and 30](#)).

Certain exceptions apply to the general rules described above.

Exception for children who are younger than 12 years and 3 months

The CVC requirements generally do not apply to a child who is younger than 12 years and 3 months ([see clause 6\(1\)](#),). A business or service satisfies any requirement to ensure that a child on the premises is CVC compliant if the business or service reasonably considers that the child is under the age of 12 years and 3 months ([see clause 6\(2\)](#)).

Gatherings and events

The Protection Framework establishes new types of permitted gatherings and events that rely on the use of CVCs. Clauses [43](#) to [46](#) set out new types of CVC-compliant gatherings, and clauses [52](#) and [53](#) set out corresponding types of CVC-compliant events.

The CVC compliant gatherings and events that are permitted at Green, Orange, and Red are those specified in the relevant COVID-19 response schedule.

Gatherings and events that do not use CVCs will have stricter requirements imposed than those that do (for example, the event may be subject to capacity limits).