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Which professionals must present their vaccination pass since January 24, 2022?

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Illustration 1

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Since January 24, 2022, the vaccination pass is mandatory for those working in certain places where it is required for customers and users. Which professionals are involved? In what locations and for what types of events? What happens if the trader does not present their pass? This obligation is provided for by the law strengthening the tools for the management of the health crisis published in *Official Journal* of 23 January 2022.

The law of 5 August 2021 on the management of the health crisis introduced the obligation of the health pass for persons working in certain places receiving the public, it entered into force on 30 August 2021. The law strengthening the tools for the management of the health crisis transforms the health pass into a vaccination pass, professionals working in the places and services where the vaccination pass is required are also affected by this obligation.

The vaccination pass consists of the digital (via the application TousAntiCovid) or paper, of a health proof, among the following three:

- vaccination certificate (full vaccination scheme, booster dose within the time limit for persons 18 years and 1 month of age eligible for vaccination);
- Certificate of Recovery (RT-PCR or positive antigen test) of more than 11 days and less than 6 months;
- certificate of contraindication to vaccination.

Individuals who are contraindicated for Covid-19 vaccination (<https://www.service-public.fr/particuliers/actualites/A15102>) may ask their doctor for a medical certificate that serves as a vaccination pass.

Which professionals are involved?

Effective January 24, 2022, employees, employees and apprentices aged 16 and over, volunteers, providers, temporary workers, subcontractors who work in places, establishments, services or events where the vaccination pass is requested, must present their vaccination pass to their employer, except when their activity is:

- in spaces not accessible to the public (e.g. offices);
- outside opening hours to the public.

Not subject to the vaccination pass:

- personnel making deliveries;
- personnel involved in emergency response (e.g., work to repair accidents or damage to equipment, facilities or buildings or to organise rescue measures).

 **Please note :** A waiver to use a negative test certificate of less than 24 hours as part of the vaccination pass is available until February 15, 2022, for those who received their first dose of vaccine before that date, pending their second dose.

 **FYI :** The law on various health surveillance provisions published in *Official Journal* of 11 november 2021 extends until 31 July 2022 the exit regime from the state of health emergency and in particular the possibility to use the pass until that date if the health situation warrants it.

Where?

The places and events involved are:

- **places for leisure activities:**
 - auditoriums, conference rooms, projection rooms, meeting rooms;
 - concert and performance venues;
 - cinemas
 - museums and temporary exhibitions;
 - festivals (sitting and standing);
 - sports events (amateur outdoor sports events);
 - closed and covered sports establishments;
 - outdoor facilities (sports fields, stadiums, swimming pools...);
 - conservatories, when they host spectators, and other places of artistic education except for professional practitioners and persons engaged in professional training;
 - game rooms, escape-games, casinos;
 - zoos, amusement parks and circuses;
 - capitals, tents and structures;
 - libraries (except those university and specialised libraries such as the Bibliothèque nationale de France, the Bibliothèque publique d'information hors espaces d'expositions);

- cultural events organised in higher education institutions;
- fairgrounds with more than 30 stands or attractions;
- cruise ships with catering or accommodation;
- any cultural, sporting, playful or festive event, organised in the public space or in a place open to the public, which may give rise to a control of the access of persons.
- **trade fairs, trade shows and professional seminars** more than 50 persons, when they take place at a site outside the company.
- **places of conviviality:** discotheques, clubs and dancing bars, bars, cafes and restaurants, except for canteens, company restaurants, takeaways and road relays, as well as during room service and breakfast in hotels and non-commercial catering, including the free distribution of meals;
- **interregional public transport:** domestic flights, TGV journeys, Intercity and night trains, interregional coaches;
- **department stores and major shopping centres** greater than 20 000 m² according to a list defined by the prefect of department. Since 8 September, the sanitary pass is no longer required in the commercial centres of the departments where the incidence rate is less than 200 / 100 000 inhabitants and has been decreasing continuously for at least 7 days.

 **Reminder :** Staff of health and medical-social establishments and services, subject to the vaccination requirement (<https://www.service-public.fr/particuliers/actualites/A15106>), must present a vaccination certificate.

Who should check the sanitary pass?

The person in charge of the establishment is responsible for checking that its employees have a valid vaccination pass. It may authorise by name the persons authorised to inspect the documents on its behalf. Checks on the validity of the employee health pass must be carried out every day, except for employees who voluntarily provide a vaccination certificate.

To carry out the checks, the managers of these establishments use the application « *AllAntiCovid Verif* ».

If you are not in possession of the vaccination pass from January 24, 2022?

An exemption to the pass allows a negative test certificate of less than 24 hours to be used in the pass through the vaccine until 15 February 2022. for those who received their first dose of vaccine before that date, pending their second dose.

If your position is affected by the mandatory vaccination pass, your employer may notify you by any means of the suspension of your duties or employment contract. You're no longer paid. This suspension ends when you present one of the required supporting documents.

If the suspension of your employment contract or duties extends beyond 3 working days, your employer will call you to an interview to discuss with you the means of regularising your situation. The possibility of assigning yourself temporarily to a position not subject to the requirement to hold a health pass (e.g., a position without contact with the public, an adaptation of your position in telework) is discussed.

Dismissal in case of failure to vaccinate Covid is not possible.

 **FYI :** The Ministry of Labour makes available to employers and employees a question and answer concerning the obligation to vaccinate or hold a health pass for certain professions  (<https://travail-emploi.gouv.fr/le-ministere-en-action/coronavirus-covid-19/questions-reponses-par-theme/article/obligation-de-vaccination-ou-de-detener-un-pass-sanitaire-pour-certaines>).

Statute and miscelanious references

- Act No. 2022-46 of 22 January 2022 strengthening the tools for the management of the health crisis and amending the Public Health Code  (<https://www.legifrance.gouv.fr/eli/loi/2022/1/22/PRMX2138186L/jo/texte>)
- Decree No. 2022-51 of 22 January 2022 amending Decree No. 2021-699 of 1 June 2021 prescribing the general measures necessary for the management of the health crisis  (<https://www.legifrance.gouv.fr/eli/decret/2022/1/22/2022-51/jo/texte>)
- Act No. 2021-1040 of 5 August 2021 on the management of the health crisis  (<https://www.legifrance.gouv.fr/eli/loi/2021/8/5/PRMX2121946L/jo/texte>)

Additional topics

- Work and Covid-19: what are the rules? (<https://www.service-public.fr/particuliers/vosdroits/F35217?lang=en>)
- Occupational health protocol: what are the developments as of 21 January 2022? (<https://www.service-public.fr/particuliers/actualites/A15338?lang=en>)
- Vaccination becomes mandatory for certain professions (<https://www.service-public.fr/particuliers/actualites/A15106?lang=en>)
- How do I deal with contraindication to vaccination? (<https://www.service-public.fr/particuliers/actualites/A15102?lang=en>)
- Everything about the vaccine pass (<https://www.service-public.fr/particuliers/actualites/A15121?lang=en>)

For more information, please contact

- Company sanitary protocol applicable to 21 January 2022 (PDF - 1.2 MB)  (<https://travail-emploi.gouv.fr/IMG/pdf/protocole-nationale-sante-securite-en-entreprise.pdf>)
Ministry of Labour
- The "vaccination pass"  (<https://www.gouvernement.fr/le-pass-vaccinal-mode-d-emploi>)
Prime Minister
- "Health Pass" (Government Site)  (<https://www.gouvernement.fr/info-coronavirus/pass-sanitaire>)
Prime Minister
- Q&A - Requirement to Obtain Vaccination or Health Pass for Certain Occupations  (<https://travail-emploi.gouv.fr/le-ministere-en-action/coronavirus-covid-19/questions-reponses-par-theme/article/obligation-de-vaccination-ou-de-detener-un-pass-sanitaire-pour-certaines>)
Ministry of Solidarity and Health