



Cabinet Business Committee

Minute of Decision

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COVID-19 Public Health Response Amendment Bill: Further Policy Approvals and Approval for Introduction

Portfolio COVID-19 Response

On 15 September 2021, the Cabinet Business Committee:

Background

- 1 **noted** that the COVID-19 Public Health Response Amendment Bill (the Bill) holds a category two priority on the 2021 Legislation Programme (must be passed by the end of the year);

Contents of the Bill

- 2 **noted** that the Bill amends the COVID-19 Public Health Response Act 2020 (the Act) to better support the government's response to the COVID-19 pandemic based on what we have learnt over the past year working with the Act;
- 3 **noted** that the Cabinet Social Wellbeing Committee (SWC) previously agreed to matters for inclusion in the Bill, including:
 - 3.1 extending the term of the Act, increasing infringement fees, and changes to improve the flexibility of the making of COVID-19 orders, more effective management of laboratory testing, and the management of demand for places in managed isolation and quarantine (MIQ) facilities [SWC-21-MIN-0067];
 - 3.2 that enforcement officers may stop vehicles at relevant checkpoints to enforce or monitor compliance with COVID-19 orders [SWC-21-MIN-0100.01];

Changes in policy and further decisions from Cabinet

- 4 **noted** that SWC authorised the Minister for COVID-19 Response to make any necessary policy decisions that may arise during the drafting process, consistent with the policy intentions agreed by Cabinet [SWC-21-MIN-0067];
- 5 **noted** that the Minister for COVID-19 Response has made the following policy decisions in the Bill:
 - 5.1 the Bill empowers section 11 Orders to require labs doing COVID-19 testing to do so for the national public health response and requisition of testing consumables held by laboratories for reallocation to the national public health response, both subject to provision of compensation for materials and work;

- 5.2 the provisions for allocation of MIQ spaces to groups have been amended, so that the Minister for COVID-19 Response sets the eligibility criteria for, and decides, offline group allocations, and the Chief Executive of the Ministry of Business, Innovation and Employment publishes the eligibility criteria and approved group allocations;
- 5.3 in order to allow for enforcement of managed isolation and quarantine rules, the Bill provides a power for the Chief Executive of the Ministry of Business, Innovation and Employment to withhold items that are in breach of the rules or that the Chief Executive reasonably believes are in breach of the rules;
- 5.4 the exemption from managed isolation and quarantine charges for diplomats and their families has been removed from the Act and will be put into the COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Regulations 2020, so that all exemptions sit in the one place;
- 6 **noted** that enabling the Act to be repealed by an Order in Council would duplicate the existing resolution process which is subject to Parliament;
- 7 **agreed** that the Bill remove the ability for the Act to be repealed by an Order in Council;

Policy approval

- 8 **agreed** to increase the maximum penalties for individual offences in the Bill as follows:
- 8.1 the maximum individual criminal fine (upon conviction) to \$12,000;
- 8.2 the maximum individual infringement fee to \$4,000;
- 8.3 the maximum individual infringement fine (imposed by a court) to \$12,000;
- 9 **agreed** to include a new criminal offence penalty of up to \$15,000 for body corporates;
- 10 **agreed** to increase the maximum penalties for body corporates in the Bill as follows:
- 10.1 the maximum infringement fee for body corporates to \$12,000;
- 10.2 the maximum infringement fine (imposed by a court) to \$15,000;

Infringement regulations

- 11 **noted** that a cross-agency group of officials are working on the infringement regulations at the same time as the development of the Bill;
- 12 **agreed** that the infringement regulations will provide for different penalties for individuals and other persons, and for different penalties depending on the gravity of the infringement offence, but not exceeding the maximum amounts proposed by the Bill;
- 13 **agreed** that the Minister for COVID-19 Response decide the amounts of the penalties for the infringement offences and for those amounts to be prescribed by the regulations, and that the Minister report on that decision to Cabinet;
- 14 **invited** the Minister for COVID-19 Response to issue drafting instructions to Parliamentary Counsel Office for the infringement regulations;
- 15 **authorised** the Minister for COVID-19 Response to make any necessary policy decisions that may arise during the drafting of the regulations that are consistent with the policy intentions in paragraphs 12 and 13 above;

Approval of the Bill

- 16 **approved** the COVID-19 Public Health Response Amendment Bill [PCO 23442/5.0] for introduction, subject to the final approval of the government caucus and sufficient support in the House of Representatives;
- 17 **agreed** that the Bill be introduced on 20 September 2021;
- 18 **agreed** that the government propose that the Bill be:
- 18.1 referred to the Health Select Committee for consideration;
- 18.2 enacted by the end of November 2021.

Rachel Clarke
Committee Secretary

Present:

Rt Hon Jacinda Ardern (Chair)
Hon Grant Robertson
Hon Kelvin Davis
Hon Dr Megan Woods
Hon Chris Hipkins
Hon Carmel Sepuloni
Hon Andrew Little
Hon David Parker
Hon Nanaia Mahuta
Hon Poto Williams
Hon Stuart Nash
Hon Kris Faafoi
Hon Peeni Henare
Hon Michael Wood
Hon Aupito William Sio

Officials present from:

Office of the Prime Minister
Department of the Prime Minister and Cabinet
Ministry of Health