



Cabinet Legislation Committee

Minute of Decision

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COVID-19 Public Health Response (Infringement Offences) Regulations 2021 and COVID-19 Public Health Response Amendment Act 2021 Commencement Order 2021

Portfolio **COVID-19 Response**

On 25 November 2021, the Cabinet Legislation Committee:

- 1 **noted** that on 15 September 2021, the Cabinet Business Committee agreed that:
 - 1.1 infringement regulations 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 COVID-19 Public Health Response Amendment Act (No 2) 2021;
 - 1.2 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;
- [CBC-21-MIN-0102]
- 2 **noted** that the Minister for COVID-19 Response agreed to:
 - 2.1 three classes of infringement offence with corresponding fees and fines based on the risk a breach of a requirement poses regarding spread and transmission of COVID-19: low risk, medium risk and high risk;
 - 2.2 assign classes to the infringement offences contained in sections 32P and 32T of the COVID-19 Public Health Response Act 2020 as high and low risk respectively;
- 3 **noted** that the COVID-19 Public Health Response (Infringement Offences) Regulations 2021 give effect to the decisions referred to in paragraph 1 and 2 above;
- 4 **noted** that the maximum fees and fines and the provisions in the Act related to infringement offences will be brought into force concurrently by the commencement order;
- 5 **authorised** the submission to the Executive Council of the:
 - 5.1 COVID-19 Public Health Response (Infringement Offences) Regulations 2021 [PCO 24248/3.0];
 - 5.2 COVID-19 Public Health Response Amendment Act 2021 Commencement Order 2021 [PCO 24327/3.0];

- 6 **noted** that a waiver of the 28-day rule is sought:
- 6.1 so that the regulations can come into force as soon as possible;
 - 6.2 on the grounds that the increased fees and fines are necessary to deter increasing breaches of COVID-19 orders ahead of the holiday season;
- 7 **agreed** to a waiver of the 28-day rule so that Regulations and Commencement Order come into force on 4 December 2021;
- 8 **noted** that before making a recommendation for regulations under section 33(1)(a) and (b) of the Act, section 33(1A) requires that the responsible Minister must consider:
- 8.1 the severity and impact of the breaches specified as infringement offences or classes of infringement offences;
 - 8.2 the appropriateness of the penalty for any group likely to be affected, including equity considerations;
 - 8.3 comparable penalties under legislation.
- 9 **noted** the advice of the Minister for COVID-19 Response that this requirement has been met.

Rebecca Davies
Committee Secretary

Present:

Hon Chris Hipkins (Chair)
Hon David Parker
Hon Poto Williams
Hon Kris Faafoi
Hon Jan Tinetti
Hon Kiri Allan
Hon Dr David Clark
Keiran McNulty, MP (Senior Government Whip)

Officials present from:

Office of the Prime Minister
Officials Committee for LEG