

In Confidence

Office of the Minister of Health
Chair, Cabinet Legislation Committee

NEW ZEALAND PUBLIC HEALTH AND DISABILITY (HEALTH PROMOTION AGENCY LEVY) ORDER 2021

Proposal

- 1 This paper seeks authorisation for submission to the Executive Council of the New Zealand Public Health and Disability (Health Promotion Agency Levy) Order 2021.

Policy

- 2 The New Zealand Public Health and Disability Act 2000 (the Act) applies a levy to imported and manufactured alcohol to fund the alcohol-related programmes of Te Hiringa Hauora | Health Promotion Agency. The levy is determined annually by the responsible Minister, in accordance with the process set out in the Act, and set by Order in Council.
- 3 The calculation of the levy is a standard procedure as detailed in the Act and is based on statistics supplied annually by the New Zealand Customs Service. This is a routine process each year and does not require any new policy decisions.

Components of the Levy

- 4 There are six classes of alcohol covered by the Act:
 - A: 1.15–2.5 percent alcohol (for example, beer, cider, fruit wine)
 - B: 2.5–6 percent alcohol (for example, other beer, fruit wine)
 - C: 6–9 percent alcohol (for example, wine, other fermented beverages)
 - D: 9–14 percent alcohol (for example, table wine, champagne)
 - E: 14–23 percent alcohol (for example, vermouth, fortified wine, liqueurs)
 - F: more than 23 percent alcohol (for example, spirits, liqueurs).
- 5 Rates of levy differ for each class of alcohol. Three of these rates are fixed under the Act (Classes A, C and D) and three are variable (Classes B, E and F). Levy calculations for each of the six classes of alcohol are based on quantities of alcohol imported or manufactured in the previous calendar year (data for the calculations is supplied by the New Zealand Customs Service). The variable rates have been determined in accordance with Schedule 4A to the Act.
- 6 The aggregate levy figure is the sum that the responsible Minister considers reasonable for Te Hiringa Hauora to spend in respect of its alcohol-related functions and programmes, less any likely interest income. For 2021/22 this has been set at

\$11.530 million, being \$11.560 million (the aggregate expenditure figure) less anticipated interest revenue of \$30,000.

Proposed Levies for 2021/22

- 7 In accordance with the Act, the individual levies for 2021/22 that will be set by the Order are as follows (note the percentage increase/(decrease) from 2020/21 for reference).

Class of alcohol	Method of determining rate of alcohol in class	Rate of alcohol per litre applied for the purpose of setting the levy	Amount of levy (dollars per litre)	Budgeted levy in 2021/22	Percentage increase/ (decrease) from 2020/21 dollars per litre
A (1.15 – 2.5% per litre)	Schedule	1.50%	0.005116	27,612	0.08%
B (2.5 – 6% per litre)	Variable	4.42%	0.015058	5,235,157	(4.57%)
C (6 – 9% per litre)	Schedule	8.00%	0.027283	1,019,290	0.08%
D (9 – 14% per litre)	Schedule	10.00%	0.034104	3,265,072	0.08%
E (14 – 23% per litre)	Variable	17.35%	0.059181	90,434	(0.77%)
F (more than 23% per litre)	Variable	37.5%	0.127876	1,892,433	(1.62%)

- 8 As the required levy calculations are based on the previous calendar year's importation and manufacturing statistics (volume), the levy (dollars per litre) may increase or decrease from one year to the next even if the rate remains the same.

Financial Implications

- 9 Schedule 4A of the Act requires that the Minister of Health, with the concurrence of the Minister of Finance, must assess the aggregate expenditure figure that would be reasonable for Te Hiringa Hauora to expend in the coming year.
- 10 As described in paragraph 7, the aggregate levy figure for 2021/22 has been set at \$11.530 million, being \$11.560 million (the aggregate expenditure figure) less anticipated interest revenue of \$30,000. The proposed aggregate levy figure is equal to that for 2020/21.

Timing and 28-day rule

- 11 The Order will come into effect on 1 July 2021 and no waiver of the 28-day rule is being sought.
- 12 The New Zealand Public Health and Disability (Health Promotion Agency Levy) Order 2020 will be revoked by the new Order.

Compliance

- 13 This Order complies with:
- 13.1 the principles of the Treaty of Waitangi

- 13.2. the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993
 - 13.3. the principles and guidelines set out in the Privacy Act 2020
 - 13.4. relevant international standards and obligations
 - 13.5. the Legislation Advisory Committee *Guidelines on the Process and Content of Legislation* (2018).
- 14 Section 2(1) of Schedule 4A of the New Zealand Public Health and Disability Act 2000 requires the Minister of Health to act with the concurrence of the Minister of Finance to assess the aggregate expenditure figure each year. I received the Minister of Finance's concurrence to the aggregate expenditure figure on 5 May 2021. Therefore, this requirement has been met.

Regulations Review Committee

- 15 There are no anticipated grounds for the Regulations Review Committee to draw the Order to the attention of the House under Standing Order 327.

Certification by Parliamentary Counsel

- 16 The Order in Council is certified by the Parliamentary Counsel Office as being in order for submission to the Executive Council.

Impact Analysis

- 17 A Regulatory Impact Statement is not required as the proposal is of a technical nature and has only minor impacts on some businesses.

Publicity

- 18 The Order will be notified in the New Zealand Gazette. I also intend to write to major alcohol industry groups informing them directly of the levy for 2021/22.

Proactive Release

- 19 This paper will be proactively released within 30 business days of decisions being confirmed by Cabinet.

Consultation

- 20 The New Zealand Customs Service has been consulted in preparing this paper and concurs with its recommendations.
- 21 The Minister of Finance has been consulted on the aggregate expenditure figure in accordance with the Act.

Recommendations

I recommend that the Cabinet Legislation Committee:

- 1 note that Te Hiringa Hauora's alcohol-related programmes are funded through a levy that applies to imported and manufactured alcohol, and that this levy is set by Order in Council

- 2 note that section 2(1) of Schedule 4A of the New Zealand Public Health and Disability Act 2000 requires the Minister of Health to act with the concurrence of the Minister of Finance to assess the aggregate expenditure figure each year
- 3 note the advice of the Minister of Health that this requirement has been met
- 4 note that the aggregate levy figure for 2021/22 has been set at \$11.530 million, equal to that for 2020/21
- 5 note that the individual levies that will be set by the Order in Council for the six classes of alcohol described by the Act are:

Class	Method of determining the rate of alcohol in class	Rate applied	Amount of levy (\$ per l)
A	Schedule	1.50%	0.005116
B	Variable	4.42%	0.015058
C	Schedule	8.00%	0.027283
D	Schedule	10.00%	0.034104
E	Variable	17.35%	0.059181
F	Variable	37.5%	0.127876

- 6 authorise the submission to the Executive Council of the New Zealand Public Health and Disability (Health Promotion Agency Levy) Order 2021
- 7 note that the New Zealand Public Health and Disability (Health Promotion Agency Levy) Order 2021 will come into force on 1 July 2021.

Authorised for lodgement

Hon Andrew Little
Minister of Health

IN CONFIDENCE

**New Zealand Public Health and Disability (Health
Promotion Agency Levy) Order 2021**

Governor-General

Order in Council

At Wellington this day of 2021

Present:
in Council

This order is made under clause 4 of Schedule 4A of the New Zealand Public Health and Disability Act 2000—

- (a) on the advice and with the consent of the Executive Council; and
- (b) following a determination by the Minister of Health made in accordance with clause 3 of Schedule 4A of that Act.

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Rate and amount of levy for each class of alcohol

Order

1 Title

This order is the New Zealand Public Health and Disability (Health Promotion Agency Levy) Order 2021.

2 Commencement

This order comes into force on 1 July 2021.

3 Interpretation

In this order, **Act** means the New Zealand Public Health and Disability Act 2000.

4 Amounts of levy set out in Schedule

The amount of levy payable under clause 5 of Schedule 4A of the Act for each class of alcohol for the financial year beginning on 1 July 2021 is set out in the third column of the Schedule.

5 Rates determined for classes of alcohol described as having variable rate

The rates used to determine the levy for the classes of alcohol described in the table in Schedule 4B of the Act as having a variable rate (classes B, E, and F) are set out in the second column of the Schedule.

6 Revocation

The New Zealand Public Health and Disability (Health Promotion Agency Levy) Order 2020 (LI 2020/106) is revoked.

Schedule

Rate and amount of levy for each class of alcohol

cls 4, 5

Class of alcohol	Rate applied for purposes of clause 3 of Schedule 4A of Act	Amount of levy (dollars per litre of alcohol)
A	1.50%	0.005116
B	4.42%	0.015058
C	8.00%	0.027283
D	10.00%	0.034104
E	17.35%	0.059181
F	37.50%	0.127876

Clerk of the Executive Council.

Explanatory note

This note is not part of the order, but is intended to indicate its general effect.

This order, which comes into force on 1 July 2021,—

- fixes the amount of the Health Promotion Agency levy for the financial year beginning on 1 July 2021 for each class of alcohol described in the New Zealand Public Health and Disability Act 2000 (the **Act**); and
- identifies the variable rate that the Act requires the Minister of Health to determine annually for each of the 3 classes of alcohol described in the table in Schedule 4B of the Act as having a variable rate (classes B, E, and F); and
- revokes the New Zealand Public Health and Disability (Health Promotion Agency Levy) Order 2020.

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*:

This order is administered by the Ministry of Health.

PROACTIVELY RELEASED