

In Confidence

Office of the Minister of Health  
Chair, Cabinet Legislation Committee

## **NEW ZEALAND PUBLIC HEALTH AND DISABILITY (ALCOHOL LEVY) ORDER 2022**

### **Proposal**

- 1 This paper seeks authorisation to submit the New Zealand Public Health and Disability (Alcohol Levy) Order 2022 to the Executive Council.

### **Policy**

- 2 Under the New Zealand Public Health and Disability Act 2000 (NZPHD Act) levies can be imposed to enable Te Hīringa Hauora | Health Promotion Agency to recover costs it incurs in addressing alcohol-related harm, and its other alcohol-related activities.
- 3 The levy is determined annually by the responsible Minister, in accordance with the process set out in the NZPHD Act and set by Order in Council.
- 4 The calculation of the levy is a standard procedure as detailed in the NZPHD 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.
- 5 Te Hīringa Hauora is due to be disestablished and the NZPHD Act repealed through the health and disability system reforms. The Pae Ora (Healthy Futures) Act (the Pae Ora Act) will become the new vehicle to allow for levies to be imposed so that the Ministry of Health (the Ministry) can recover costs it incurs in addressing alcohol-related harm, and its other alcohol-related activities. The Pae Ora Act is expected to commence on 1 July 2022.
- 6 The 2022/23 levy needs to be set under the NZPHD Act. However, the operation of section 36 of the Legislation Act 2019 will ensure that the levy will continue post enactment of the Pae Ora Act as if it were set under that Act.
- 7 This year, the Order will come into effect on 30 June 2022 rather than the usual 1 July date. To allow for the operation of section 36 of the Legislation Act, it is necessary for the levy to be in force before the repeal of the NZPHD Act and the enactment of the Pae Ora Act.

### ***Components of the Levy***

- 8 There are six classes of alcohol covered by the NZPHD 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).

- 9 Rates of levy differ for each class of alcohol, and increase based on the strength of the alcohol. Three of these rates are fixed under the NZPHD 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 NZPHD Act.
- 10 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.
- 11 For 2022/23 this has been set at \$11.560 million and has not been adjusted for any anticipated interest revenue. This is because Te Hiringa Hauora is being disestablished through the health system reforms and will not exist to earn any interest income. Under the Pae Ora Act the levy funding is expected to transition to the Ministry, which does not invest as contemplated in Clause 2(2) of Schedule 4A to the NZPHD Act.

### **Proposed Levies for 2022/23**

- 12 In accordance with the NZPHD Act, the individual levies for 2022/23 that will be set by the Order are as follows (note the percentage increase/(decrease) from 2021/22 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 2022/23 | Percentage increase/ (decrease) from 2021/22 dollars per litre |
|---------------------------------------|--|---|------------------------------------|--------------------------|--|
| <b>A</b><br>(1.15 – 2.5% per litre)   | Schedule                                       | 1.50%   | 0.005594                           | 24,434                   | 0.08%  |
| <b>B</b><br>(2.5 – 6% per litre)      | Variable                                       | 4.37%   | 0.016282                           | 5,049,826                | (4.79%)  |
| <b>C</b><br>(6 – 9% per litre)        | Schedule                                       | 8.00%   | 0.029833                           | 1,066,399                | 0.08%  |
| <b>D</b><br>(9 – 14% per litre)       | Schedule                                       | 10.00%  | 0.037291                           | 3,158,473                | 0.08%  |
| <b>E</b><br>(14 – 23% per litre)      | Variable                                       | 16.99%  | 0.063343                           | 117,846                  | (0.77%)  |
| <b>F</b><br>(more than 23% per litre) | Variable                                       | 38.66%  | 0.144172                           | 2,143,020                | (1.65%)  |

- 13 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**

- 14 Schedule 4A to the NZPHD 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 spend in the coming year.
- 15 As described in paragraph 10, the aggregate expenditure figure for 2022/23 has been set at \$11.560 million. The aggregate levy figure is also \$11.560 million as no interest is anticipated for the coming year. The proposed aggregate expenditure figure is equal to that

for 2021/22, but the aggregate levy figure is slightly higher than that for 2021/22, which was \$11.530 million.

### **Timing and 28-day rule**

- 16 The Order will come into effect on 30 June 2022 and no waiver of the 28-day rule is being sought.
- 17 The New Zealand Public Health and Disability (Health Promotion Agency Levy) Order 2021 will be revoked by the new Order.

### **Compliance**

- 18 This Order complies with:
  - 18.1. the principles of Te Tiriti o Waitangi
  - 18.2. the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993
  - 18.3. the principles and guidelines set out in the Privacy Act 2020
  - 18.4. relevant international standards and obligations
  - 18.5. the Legislation Advisory Committee *Guidelines on the Process and Content of Legislation* (2018).
- 19 Clause 2(1) of Schedule 4A to the NZPHD Act 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 agreement to the aggregate expenditure figure on 30 March 2022. Therefore, this requirement has been met.

### **Regulations Review Committee**

- 20 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**

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

### **Impact Analysis**

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

### **Publicity**

- 23 The Order will be notified in the *New Zealand Gazette*. I also intend to write to major alcohol industry groups informing them of the levy for 2022/23 once the Order has been signed by the Governor General.

### **Consultation**

- 24 The New Zealand Customs Service has been consulted in preparing this paper and concurs with its recommendations.

25 The Minister of Finance has been consulted on the aggregate expenditure figure in accordance with the NZPHD 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 when Te Hiringa Hauora is disestablished and the NZPHD Act is repealed as part of the health and disability system reforms, the levy funding will transition to the Ministry of Health under the Pae Ora Act
- 3 **note** that clause 2(1) of Schedule 4A of the NZPHD Act requires the Minister of Health to act with the concurrence of the Minister of Finance to assess the aggregate expenditure figure each year, and that this requirement has been met
- 4 **note** that the aggregate expenditure figure for 2022/23 has been set at \$11.560 million, equal to that for 2021/22
- 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%        | 0.005594                  |
| B     | Variable   | 4.37%        | 0.016282                  |
| C     | Schedule   | 8.00%        | 0.029833                  |
| D     | Schedule   | 10.00%       | 0.037291                  |
| E     | Variable   | 16.99%       | 0.063343                  |
| F     | Variable   | 38.66%       | 0.144172                  |

- 6 **authorise** the submission of the New Zealand Public Health and Disability (Alcohol Levy) Order 2022 to the Executive Council
- 7 **note** that the New Zealand Public Health and Disability (Alcohol Levy) Order 2022 will come into force on 30 June 2022.

Authorised for lodgement

Hon Andrew Little  
**Minister of Health**

# IN CONFIDENCE

## New Zealand Public Health and Disability (Alcohol Levy) Order 2022

Governor-General

### Order in Council

At Wellington this                      day of                      2022

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 (Alcohol Levy) Order 2022.

### 2 Commencement

This order comes into force on 30 June 2022.

### 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 2022 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 2021 (LI 2021/131) is revoked.

**Schedule**  
**Rate and amount of levy for each class of alcohol**

cls 4, 5

| <b>Class of alcohol</b> | <b>Rate applied for purposes of<br/>clause 3 of Schedule 4A of Act</b> | <b>Amount of levy (dollars per<br/>litre of alcohol)</b> |
|-------------------------|--|--|
| A                       | 1.50%  | 0.005594   |
| B                       | 4.37%  | 0.016282   |
| C                       | 8.00%  | 0.029833   |
| D                       | 10.00%   | 0.037291   |
| E                       | 16.99%   | 0.063343   |
| F                       | 38.66%   | 0.144172   |

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 30 June 2022,—

- fixes the amount of the Health Promotion Agency levy for the financial year beginning on 1 July 2022 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 2021.

Issued under the authority of the Legislation Act 2019.

Date of notification in *Gazette*:

This order is administered by the Ministry of Health.