

Minister of Health

Cabinet material: Pae Ora (Healthy Futures) (Alcohol Levy) Order 2023

31 October 2023

These documents have been proactively released by the Ministry of Health on behalf of the Minister of Health, Hon Dr Ayesha Verrall.

Title of Cabinet paper:

- Pae Ora (Healthy Futures) (Alcohol Levy) Order 2023

Titles of minutes:

- Report of the Cabinet Legislation Committee: Period Ended 5 May 2023 (CAB-23-MIN-0162)
- Report of the Cabinet Legislation Committee Minute (LEG-23-MIN-0041).

Some information has been redacted from the Cabinet minute as it is out of scope of the subject of this proactive release.



Cabinet


Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Report of the Cabinet Legislation Committee: Period Ended 5 May 2023

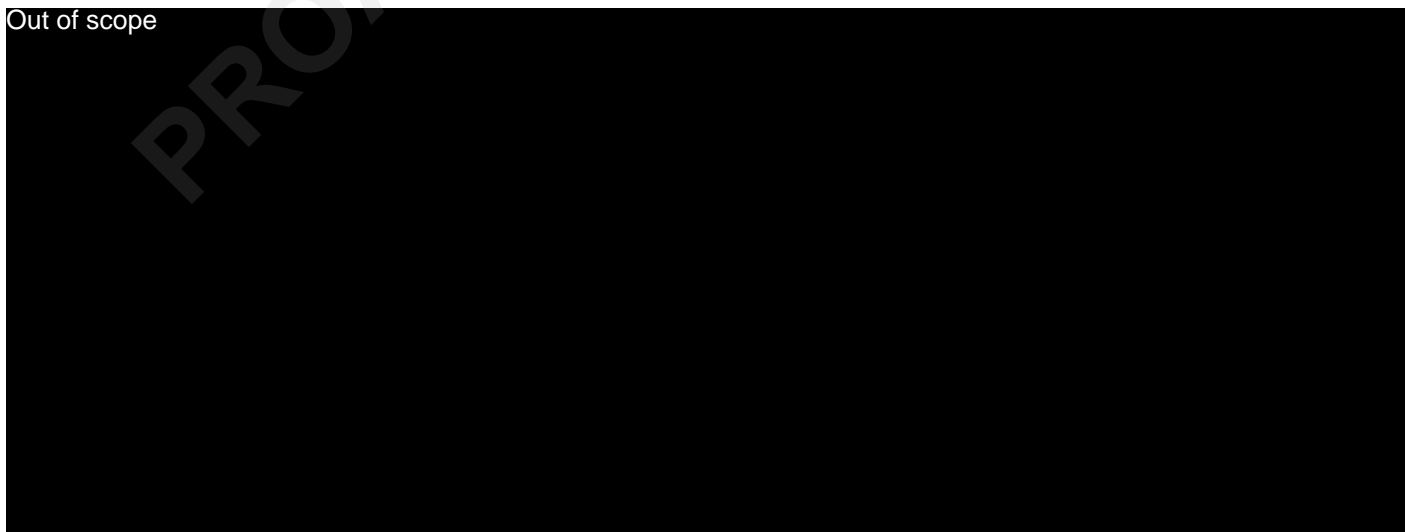
On 8 May 2023, Cabinet made the following decisions on the work of the Cabinet Legislation Committee for the period ended 5 May 2023:

Out of scope




LEG-23-MIN-0041 **Pae Ora (Healthy Futures) (Alcohol Levy) Order 2023** CONFIRMED
Portfolio: Health

Out of scope



Out of scope



Rachel Hayward
Secretary of the Cabinet

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Cabinet Legislation Committee

Minute of Decision

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Pae Ora (Healthy Futures) (Alcohol Levy) Order 2023

Portfolio Health

On 4 May 2023, the Cabinet Legislation Committee:

- 1 **noted** that the Pae Ora Act allows for levies, set by Order in Council, to be imposed on alcohol products manufactured or imported for sale, for the purpose of enabling the Ministry to recover costs it incurs in addressing alcohol-related harm, and in other alcohol related activities;
- 2 **noted** that clause 2(1) of Schedule 6 of the Pae Ora 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;
- 3 **noted** that the aggregate expenditure figure for 2023/24 has been set at \$11.5 million, approximately equal to that for 2022/23;
- 4 **noted** 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 litre)
A	Schedule	1.50%	0.005056
B	Variable	4.65%	0.015665
C	Schedule	8.00%	0.026967
D	Schedule	10.00%	0.033708
E	Variable	16.68%	0.056214
F	Variable	37.78%	0.127345

- 5 **authorised** the submission to the Executive Council of the Pae Ora (Healthy Futures) Alcohol Levy Order 2023 [PCO 25511/3.0];
- 6 **noted** that the Pae Ora (Healthy Futures) (Alcohol Levy) Order 2023 comes into force on 1 July 2023.

Rebecca Davies
Committee Secretary

Attendance: see over

Present:

Hon Grant Robertson (Chair)
Hon Andrew Little
Hon David Parker
Hon Peeni Henare
Hon Kieran McAnulty
Hon Ginny Andersen
Hon Dr Duncan Webb
Hon Willow-Jean Prime
Tangi Utikere, MP

Officials present from:

Office of the Prime Minister
Officials Committee for LEG

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In Confidence

Office of the Minister of Health

Chair, Cabinet Legislation Committee

PAE ORA (HEALTHY FUTURES) (ALCOHOL LEVY) ORDER 2023

Proposal

- 1 This paper seeks authorisation to submit the Pae Ora (Healthy Futures) (Alcohol Levy) Order 2023 to the Executive Council.

Background

- 2 Since 1978, a levy has been raised on alcohol produced or imported for sale in Aotearoa New Zealand. The alcohol levy is hypothecated (i.e. directed to a specific use) and is separate to the excise tax collected on alcohol products (alcohol excise tax is not hypothecated and goes directly to core Crown revenue). The levy has been used to undertake activities to address alcohol-related harm. The levy was established to fund the Alcohol Advisory Council and its successor Te Hiringa Hauora - Health Promotion Agency, to enable those agencies to recover costs incurred in addressing alcohol-related harm, and in their other alcohol-related activities.
- 3 Te Hiringa Hauora was disestablished under the Pae Ora Act and overall responsibility for the levy transferred to Manatū Hauora – the Ministry of Health (the Ministry).

Policy

Pae Ora Context

- 4 Section 101 of the Pae Ora (Healthy Futures) Act 2022 (Pae Ora Act) allows for levies to be imposed for the purpose of enabling the Ministry to recover costs it incurs in addressing alcohol-related harm, and in other alcohol related activities.
- 5 Given the new context for the levy under the Pae Ora Act, the Ministry, working in partnership with Te Whatu Ora and Te Aka Whai Ora, has commissioned an external review of the levy which is currently underway. Interim findings were provided in March 2023. The final review report and recommendations are expected in November 2023.
- 6 The outcome of the review will inform next year's levy setting process.

Levy setting process

- 7 The alcohol levy is determined annually by the Minister of Health, in accordance with the process set out in the Pae Ora Act and confirmed by Order in Council.
- 8 I have, with the concurrence of the Minister of Finance, determined the annual expenditure the Ministry may incur in addressing alcohol related-harm, and its other alcohol-related activities, and which may be recovered through the alcohol levies.
- 9 That decision was informed by advice from the Ministry, Te Whatu Ora, and Te Aka Whai Ora, which itself was informed by an interim report from the external reviewers, based on preliminary analysis in the first stage of the review.

- 10 That interim report suggested three potential options for setting the overall aggregate figure for 2023/24 but recommended maintaining the same level as last year due to limited available information to support an increase in the levy at this time.
- 11 Having considered the recommendations of the Ministry, Te Aka Whai Ora, and Te Whatu Ora together with the interim summary review findings, I, in consultation with the Minister of Finance, have determined the aggregate expenditure for the 2023/24 financial year that shall be recoverable through the alcohol levy is \$11.5 million. This is approximately the same as the aggregate alcohol levy set for the 2022/23 year and the previous 9 years (see Appendix for aggregate levy amounts set for this period).
- 12 Next, with Cabinet's agreement, the levies payable on the six classes of alcohol for 2023/24 will be confirmed by Order in Council. Calculation of the levies is a standard procedure as detailed in the Pae Ora Act. The calculations are 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 at this time, due to the aggregate amount remaining the same as last year.

Components of the Levies

- 13 There are six classes of alcohol covered by the Pae Ora Act:
- A: More than 1.15% but not more than 2.5% alcohol by volume (ABV) (eg, beer, cider, fruit wine)
 - B: More than 2.5% but not more than 6% ABV (eg, other beer, fruit wine)
 - C: More than 6% but not more than 9% ABV (eg, wine, other beer, other fermented beverages)
 - D: More than 9% but not more than 14% percent ABV (eg, table wine, champagne)
 - E: More than 14% but not more than 23% ABV (eg, vermouth, fortified wine, liqueurs)
 - F: More than 23% ABV (eg, spirits, liqueurs).
- 14 Rates of levy payable differ for each class of alcohol, and increase based on the strength of the alcohol. Three of these rates are fixed under the Pae Ora 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 6 to the Pae Ora Act.

Proposed Levies for 2023/24

- 15 In accordance with the Pae Ora Act, the individual levies for 2023/24 that will be set by the Order are as follows (note the percentage increase/(decrease) from 2022/23 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 2023/24	Percentage increase/ (decrease) from 2022/23 dollars per litre
A (1.15 – 2.5% per litre)	Schedule	1.50%	0.005056	\$24,025	(10.63%)

B (2.5 – 6% per litre)	Variable	4.65%	0.015665	\$5,470,007	(3.94%)
C (6 – 9% per litre)	Schedule	8.00%	0.026967	\$1,043,469	(10.63%)
D (9 – 14% per litre)	Schedule	10.00%	0.033708	\$2,869,666	(10.63%)
E (14 – 23% per litre)	Variable	16.68%	0.056214	\$106,032	(12.68%)
F (more than 23% per litre)	Variable	37.78%	0.127345	\$1,986,799	(13.21%)

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

Financial Implications

- 17 Schedule 6 of the Pae Ora 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 the Ministry to spend on alcohol harm-reduction and other alcohol related matters in the coming year.
- 18 Noting that further policy review work is underway as described above, the aggregate expenditure figure (and therefore the total levy) for 2023/24 has been set at \$11.5 million. The proposed aggregate expenditure figure is approximately equal to that for 2022/23 and the previous 9 years.

Timing and 28-day rule

- 19 The Order will come into effect on 1 July 2023 and no waiver of the 28-day rule is being sought.
- 20 The New Zealand Public Health and Disability (Health Promotion Agency Levy) Order 2022 will be revoked by the new Order.

Compliance

- 21 This Order complies with:
- 21.1. the principles of Te Tiriti o Waitangi
 - 21.2. the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993
 - 21.3. the principles and guidelines set out in the Privacy Act 2020
 - 21.4. relevant international standards and obligations
 - 21.5. the Legislation Design and Advisory Committee *Legislation Guidelines* (2021).
- 22 Clause 2(1) of Schedule 6 to the Pae Ora 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 27 March 2023. Therefore, this requirement has been met.

Regulations Review Committee

- 23 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

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

Impact Analysis

- 25 The Treasury's Regulatory Impact Analysis team has determined that this proposal to set levies by class of alcohol under the Pae Ora (Healthy Futures) Act 2022 is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that it has no or only minor impacts on businesses, individuals, and not-for-profit entities.
- 26 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met.

Publicity

- 27 The Order will be notified in the *New Zealand Gazette*. I also intend to write to key alcohol industry groups informing them of the levy decision for 2023/24 once the Order has been signed by the Governor General.

Consultation

- 28 Consultation on this paper has been carried out with the New Zealand Customs Service, The Treasury, the Ministry of Justice, Te Whatu Ora and Te Aka Whai Ora.
- 29 On 18 May 2023, the Minister of Customs will seek Cabinet's approval to undertake the annual indexation process to increase excise and excise-equivalent duty on alcoholic beverages, in line with inflation, following release of the Consumer Price Index. Alcohol excise and excise-equivalent tax is separate from the alcohol levy, because it is directed to core Crown revenue (rather than a specific cost recovery purpose) and is set under the Customs and Excise Act 2018. Customs and the Ministry of Health have consulted regarding these two matters which both affect the price of alcohol.
- 30 The Minister of Finance has been consulted on the aggregate expenditure figure in accordance with the Pae Ora Act.

Recommendations

I recommend that the Cabinet Legislation Committee:

- 1 **note** that the Pae Ora Act allows for levies to be imposed on alcohol products manufactured or imported for sale, for the purpose of enabling the Ministry to recover costs it incurs in addressing alcohol-related harm, and in other alcohol related activities. The levy is set by Order in Council. .
- 2 **note** that clause 2(1) of Schedule 6 of the Pae Ora 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.

- 3 **note** that the aggregate expenditure figure for 2023/24 has been set at \$11.5 million, approximately equal to that for 2022/23.
- 4 **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 litre)
A	Schedule	1.50%	0.005056
B	Variable	4.65%	0.015665
C	Schedule	8.00%	0.026967
D	Schedule	10.00%	0.033708
E	Variable	16.68%	0.056214
F	Variable	37.78%	0.127345

- 5 **authorise** the submission of the Pae Ora Healthy Futures (Alcohol Levy) Order 2023 to the Executive Council.
- 6 **note** that the Pae Ora (Healthy Futures) (Alcohol Levy) Order 2023 will come into force on 1 July 2023.

Authorised for lodgement

Hon Dr Ayesha Verrall
Minister of Health

Appendix: Aggregate Levy Amounts

Year	Aggregate Levy Amount (\$ million)
2023/24	11.5
2022/23	11.56
2021/22	11.56
2020/21	11.53
2019/20	11.53
2018/19	11.53
2017/18	11.53
2016/17	11.53
2015/16	11.51
2014/15	11.698
2013/14	11.967

PROACTIVELY RELEASED

Pae Ora (Healthy Futures) Alcohol Levy Order 2023

Order in Council

At Wellington this day of 2023

Present:
in Council

This order is made under clause 4 of Schedule 6 of the Pae Ora (Healthy Futures) Act 2022—

- (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 6 of that Act.

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Schedule

Rate and amount of levy for each class of alcohol

Order

1 Title

This order is the Pae Ora (Healthy Futures) Alcohol Levy Order 2023.

2 Commencement

This order comes into force on 1 July 2023.

3 Interpretation

In this order, **Act** means the Pae Ora (Healthy Futures) Act 2022.

4 Amounts of levy set out in Schedule

The amount of levy payable under clause 5 of Schedule 6 of the Act for each class of alcohol for the financial year beginning on 1 July 2023 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 7 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 (Alcohol Levy) Order 2022 (SL 2022/150) is revoked.

Schedule

Rate and amount of levy for each class of alcohol

Class of alcohol	Rate applied for purposes of clause 3 of Schedule 6 of Act	Amount of levy (dollars per litre of alcohol)
A	1.5%	0.005056
B	4.65%	0.015665
C	8.00%	0.026967
D	10.00%	0.033708
E	16.68%	0.056214
F	37.78%	0.127345

cls 4, 5

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 2023,—

- fixes the amount of the levy payable for the financial year beginning on 1 July 2023 for each class of alcohol described in the Pae Ora (Healthy Futures) Act 2022 (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 7 of the Act as having a variable rate (classes B, E, and F); and
- revokes the New Zealand Public Health and Disability (Alcohol Levy) Order 2022.

Issued under the authority of the Legislation Act 2019.

Date of notification in *Gazette*:

This order is administered by the Ministry of Health.