In confidence

Office of the Associate Minister of Health
Chair, Cabinet Legislation Committee

**Revision of the notifiable level for lead absorption under the Health Act 1956**

## Proposal

1. This paper seeks authorisation for submission to the Executive Council of the Infectious and Notifiable Diseases Order 2021.

## Policy

1. Lead exposure, even at a low level, is well known for its harmful effects on children, resulting in lowered IQ and behavioural issues. The blood lead level at which lead absorption is a notifiable condition under the Health Act 1956 was last amended in 2007, when it was reduced from 0.72 micromoles per litre of blood (µmol/l) to 0.48 µmol/l.
2. The Ministry of Health has continued to monitor international evidence and approaches. In November 2019 Cabinet agreed to a further reduction to the notifiable lead absorption level – from 0.48 µmol/l to 0.24 µmol/l [SWC-19-MIN-0185 and CAB-19-MIN-0610 refer]. Submission of the draft Infectious and Notifiable Diseases Order 2021 to the Executive Council is needed to give effect to this reduction.
3. Such a reduction would mean that, when identified, more lead-exposed individuals will be managed earlier, thereby preventing further exposure and mitigating the adverse health effects. It is expected that the increase in numbers of notified cases will be managed within existing district health board (DHB) resources.
4. If notifications occur in adults with workplace exposures, these are referred to WorkSafe New Zealand. Adults with non-occupational exposures will be given advice on possible exposures, but are less at risk at these low levels of exposure because they are not subject to developmental defects. The Ministry will also release updated case management guidance for lead exposed persons when the new level comes into effect.
5. This Order will not change the arrangements where lead is detected in drinking water at levels that breach the drinking water standards.  These arrangements are, however, addressed comprehensively in the Water Services Bill, which is currently before the Health Committee and is open for public submissions.   New measures in the Water Services Bill include:

	1. requirements for suppliers to take immediate action to protect public health, inform affected consumers, and notify Taumata Arowai where drinking water is or may be unsafe, or does not comply with drinking water standards;
	2. requirements for laboratories to notify Taumata Arowai where drinking water standards are breached – this is a safeguard to protect against the situation where a supplier fails to take action;
	3. significantly stronger compliance and enforcement arrangements, which will be administered by Taumata Arowai.

## Timing and 28-day rule

1. It is proposed that the Order complies with the 28-day rule.

## Compliance

1. The Order complies with each of the following:
	1. the principles of the Treaty of Waitangi;
	2. the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
	3. the principles and guidelines set out in the Privacy Act 1993;
	4. relevant international standards and obligations;
	5. the Legislation Guidelines (2018 edition), which are maintained by the Legislation Design and Advisory Committee.

## Regulations Review Committee

1. There are no grounds for the Regulations Review Committee to draw the disallowable instrument or regulations to the attention of the House of Representatives under Standing Order 327.

## Certification by Parliamentary Counsel

1. The draft Order has been certified by the Parliamentary Counsel Office (PCO) as being in order for submission to Cabinet.

## Impact Analysis

1. The Treasury Regulatory Quality Team has determined that the proposal is exempt from the Regulatory Impact Analysis requirements as it has no or only minor impacts on businesses, individuals or not-for-profit entities.

## Publicity

1. The Ministry of Health will issue a media statement when the amendment is passed and in effect.

## Proactive release

1. I propose to proactively release this paper along with Cabinet’s decision, subject to redactions as appropriate under the Official Information Act 1982.

## Consultation

1. The following government agencies were consulted on this paper: Department of the Prime Minister and Cabinet, Environmental Protection Authority, Ministry of Education, Ministry for the Environment, Ministry of Housing and Urban Development, Kainga Ora, Ministry for Business Innovation and Employment (building policy), Ministry of justice, Ministry for Primary Industries (New Zealand Food Safety), Ministry of Social Development, Ministry for Women, Te Puni Kōkiri, Ministry for Pacific Peoples, Treasury and WorkSafe New Zealand, and the Public Service Commission.
2. In 2019 and 2020 the Ministry of Health circulated the proposal to lower the notifiable blood lead level to colleges of general practice, public health medicine, pathologists, obstetricians and gynaecologists, and physicians. The Ministry also consulted with the Nursing Council and Midwifery Council, the NZ Medical Association, Paediatric Society of NZ, medical laboratories (including Southern Community Laboratories, LabPlus, LabTests), DHB public health units, and relevant non-government organisations (eg, Plunket, National Poisons Centre, Women’s Health Action Trust, National Council of Women, Parents Centres NZ). There was a general consensus supporting the proposal to lower the current notifiable blood lead level from 0.48 µmol/l to 0.24 µmol/l.

## Recommendations

I recommend that the Cabinet Legislation Committee:

1. **note** that on 20 November 2019 the Cabinet Social Wellbeing Committee invited the former Associate Minister of Health (Hon Julie Anne Genter) to instruct Parliamentary Counsel Office to amend Section B of Schedule 2 of the Health Act 1956 to lower the notifiable lead absorption level from 0.48 µmol/l to 0.24 µmol/l [SWC-19-MIN-0185 and CAB-19-MIN-0610 refer];
2. **note** that the Infectious and Notifiable Diseases Order 2021 will give effect to the decision referred to in recommendation 1 above;
3. **note** that section 3(a) of the Health Act 1956 enables the Governor-General to amend schedule 2 of the Health Act 1956 by Order in Council;
4. **note** the advice of the Associate Minister of Health that the required prerequisites have been met;
5. **authorise** the submission to the Executive Council of the Infectious and Notifiable Diseases Order 2021;
6. **note** that the Infectious and Notifiable Diseases Order 2021 will come into force 28 days after publication in the Gazette.

Authorised for lodgement

Hon Dr Ayesha Verrall

Associate Minister of Health