

Briefing

COVID-19 Public Health Act Amendment Bill (rapid): proposed content and timeline

Date due to MO:	10 March 2021	Action required by:	10 March 2021
Security level:	IN CONFIDENCE	Health Report number:	20210563
To:	Hon Chris Hipkins, Minister for COVID-19 Response		

Contact for telephone discussion

Name	Position	Telephone
Dr Ashley Bloomfield	Director-General of Health	s 9(2)(a)
Maree Roberts	Deputy Director-General, Strategy and Policy	s 9(2)(a)

Minister's office to complete:

- | | | |
|---|------------------------------------|--|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Decline | <input type="checkbox"/> Noted |
| <input type="checkbox"/> Needs change | <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn | |

Comment:

COVID-19 Public Health Act Amendment Bill (rapid): proposed content and timeline

Security level: IN CONFIDENCE **Date:** 9 March 2021

To: Hon Chris Hipkins, Minister for COVID-19 Response

Purpose of report

1. This briefing provides you with an overview of proposed content and a draft timeline for the second COVID-19 Public Health Act 2020 Amendment Bill, for your approval. This Bill is proposed to progress rapidly through the House under urgency.

Summary

2. In late-2020 you led the legislative process for a minor amendment to the COVID-19 Public Health Act 2020 (the Act). At the time it was noted that a second Amendment Bill would be progressed in the first quarter of 2021 to make non-urgent amendments to the Act.
3. You were provided with a briefing on 17 February 2021 with options for content and timelines for progression of the Bill [HR 20210266 refers]. In that briefing you provided feedback on the content options for the Bill, and indicated that you preferred to have two Bills progress in 2021: a rapid Bill to address more pressing issues on a tight timeline, and a less rapid Bill, to address remaining issues.
4. This briefing seeks approval of the following content of this rapid Bill:
 - a. The Ministry of Health has established the Border Workforce Testing Register (the Register), which tracks and records a border worker's COVID-19 swabbing dates and testing activity to serve as a record for the Persons Conducting a Business or Undertakings (PCBUs) who employ or contract border workers. Use of the Register is currently not mandatory. It is proposed that use of the Register is made mandatory through this Bill.
 - b. Strengthening the infringement regime by increasing the maximum infringement fee to \$1,000 (currently \$300) and infringement fine to \$3,000 (currently \$1,000). Additionally, including in the Bill an authority for secondary legislation to be drafted providing details of an infringement offence regime.
 - c. A technical change to section 12 of the Act regarding the empowerment provision for the delegation of decisions from the Minister for COVID-19 Response to the Director-General of Health. This amendment would enable agility of response for decisions that need to be made at short notice and will address issues recently raised by the Regulations Review Committee.

- d. Pending your approval of a briefing forthcoming from the Ministry of Business, Innovation and Employment (due to you Wednesday 10 March), the inclusion of a carefully designed information sharing provision. This will provide transparency and certainty about what information can be shared, to specific agencies, for what purposes, and subject to appropriate privacy safeguards.
 - e. Pending the outcome of the Cabinet Social Wellbeing Committee's consideration of the paper titled "Implementing the COVID-19 Vaccine Rollout to Border Workers" on the morning of Wednesday 10 March, the inclusion of a provision requiring that only vaccinated border workers may work in border roles. This provision will only be commenced by Order in Council if other non-legislative efforts to optimise vaccination uptake are unsuccessful in delivering the public health outcome desired.
5. Further detail on these proposals will be in the Cabinet paper and Health report to be provided to you on Thursday 11 March.
 6. This briefing also seeks approval of the following timeline for rapid progression of this Bill:

Milestone	Date
Health Report seeking approval to lodge and Cabinet Paper provided to your office	Morning of Thursday 11 March
Lodgement of Cabinet paper	Thursday 11 March (approval for late lodgement to be organised by your Office)
Consideration by Cabinet	15 March
Drafting instructions sent to PCO	15 March
Bill drafting	15 to 29 March
Agency consultation, including BORA vet, will be undertaken in parallel and iteratively with drafts as they are produced	15 to 29 March
Ministerial consultation	30 and 31 March
Cabinet consideration and approval to introduce	6 April
Progress through the House under urgency	7 to 8 April
Royal Assent and commencement	Royal Assent week of 12 to 15 April. Commencement is variable: <ul style="list-style-type: none"> • Either day after Royal Assent or 15 May 2021 for mandatory use of the Border Worker Testing register. • Upon Order in Council for the requirement that only vaccinated people may perform certain roles. • The day after Royal Assent for all other provisions.

7. Following your approval of the proposed content and timeline for this rapid Bill, officials will provide you with a further Health Report and Cabinet paper for approval to lodge on the morning of Thursday 11 March.

Recommendations

We recommend you:

- a) **Agree** that the following content be included in a rapid COVID-19 Act amendment Bill:
- i) Mandating use of the Border Worker Testing Register by PCBUs; Yes/ No
 - ii) Strengthening the infringement regime by increasing the maximum infringement fee to \$1,000 and infringement fine to \$3,000 and including an authority for secondary legislation to be drafted providing details of an infringement offence regime. Yes/ No
 - iii) A technical change to section 12 of the Act regarding the empowerment provision for the delegation of decisions to the Director-General of Health to enable agility of response for decisions that need to be made at short notice. Yes/ No
 - iv) Pending your approval of a briefing forthcoming from the Ministry of Business, Innovation and Employment, a carefully designed information sharing provision to provide transparency and certainty about what information can be shared, to specific agencies, for what purposes, and subject to appropriate privacy safeguards. Yes/ No
 - v) Pending the outcome of the Cabinet Social Wellbeing Committee's consideration of the paper titled "Implementing the COVID-19 Vaccine Rollout to Border Workers", the inclusion of a provision requiring that only vaccinated border workers may work in border roles. Yes/ No
- b) **Agree** the timeline for the rapid progress of this Bill through the House as set out in paragraph 6. Yes/ No



Dr Ashley Bloomfield
Director-General of Health
Date:



Hon Chris Hipkins
Minister for COVID-19 Response
Date: 11/03/2021

ENDS.