



POLICY AND REGULATORY STEWARDSHIP

Tax policy report: **Order in Council: Extending the Commissioner's COVID-19 administrative flexibility**

Date:	30 July 2021	Priority:	High
Security level:	In Confidence	Report number:	IR2021/328

Action sought

	Action sought	Deadline
Minister of Revenue	Agree to the recommendation Authorise and lodge the attached Cabinet Legislation Committee paper by 19 August for your consideration at LEG on 26 August	19 August 2021

Contact for telephone discussion (if required)

Name	Position	Telephone
Bary Hollow	Policy Lead – Tax Administration (Acting)	s 9(2)(a)
Natisha Jones	Policy Advisor	

30 July 2021

Minister of Revenue

Order in Council: Extending the Commissioner's COVID-19 administrative flexibility

Summary

1. This report asks you to consider and authorise the lodgement of the attached draft Cabinet Legislation Committee (LEG) paper. The report seeks approval to submit an Order in Council to the Executive Council to extend the Commissioner of Inland Revenue's (Commissioner) discretionary power to provide administrative flexibility for taxpayers affected by COVID-19 (administrative flexibility measure) by one year.

Context and Background

2. You previously agreed to extend the COVID-19 administrative flexibility measure by one year (to 30 September 2022), and for officials to instruct the Parliamentary Counsel Office (PCO) to draft an Order in Council to give effect to this change (IR2021/303 refers).
3. The administrative flexibility measure was introduced in 2020 in the *Tax Administration Act 1994* to provide more flexibility for taxpayers to comply with their tax obligations where they have been affected by the impacts of COVID-19. The measure was limited in application to an 18-month period ending 30 September 2021, unless extended by an Order in Council upon recommendation of the Minister of Revenue.
4. The administrative flexibility measure allows the Commissioner to vary time-related, procedural or administrative requirements (timelines, due dates, deadlines, and time periods) when taxpayers are likely to be impacted by COVID-19 and compliance with current requirements is impossible, unreasonable or impractical. The legislation enables the Commissioner to issue a COVID-19 variation to provide flexibility in the compliance obligations under the Inland Revenue Acts. Where taxpayers choose to comply with a variation, they are treated as if they complied with the requirement set out in legislation.
5. The Parliamentary Counsel Office are currently drafting the Tax Administration (COVID-19 Response Variations) Order 2021 (Order in Council). Officials have prepared a LEG paper for your consideration and, if you agree, for lodgement to the Cabinet Office by 19 August 2021, for consideration at the LEG meeting of 26 August 2021.

Implementation

6. The proposed change has an unqualifiable fiscal impact in advance because it depends how the power is exercised. However, the fiscal impact of the variations issued so far have been minor or immaterial as most variations related to the timing allowed for elections or applications to occur as noted in our previous report (IR2021/303 refers). Any administrative costs of implementing the change will be accommodated within existing processes for assessing and implementing COVID-19 variations.

Consultation

7. The Treasury and the Parliamentary Counsel Office have been informed of the contents of this report.

Next steps

8. If you agree, the Parliamentary Counsel Office will provide the Cabinet Office with the Order in Council.
9. If you are comfortable with the draft LEG paper, please authorise and lodge with the Cabinet Office by 10am Thursday 19 August 2021.
10. Our intention is that the LEG paper be considered at the LEG meeting of Thursday 26 August 2021 and apply to extend the time period of the power. We have attached speaking notes for your use at LEG.
11. We recommend this report and the Cabinet paper be proactively released in full shortly following the notification of the signed Order in Council in the New Zealand Gazette.

Recommended action

We recommend that you:


12. **agree** to proactively release this report and the Cabinet paper following the notification of the signed Order in Council in the New Zealand Gazette.

Agree/Not agree

13. **authorise** the lodgement of the attached draft Cabinet Legislation Committee paper, seeking Cabinet approval to submit an Order in Council to the Executive Council, with the Cabinet Office by 19 August 2021.

Authorise

s 9(2)(a)



Bary Hollow

Policy Lead (Acting) – Tax Administration
Policy and Regulatory Stewardship

Hon David Parker

Minister of Revenue
/ /2021