

Cabinet Paper material

Proactive release

Minister & portfolio Hon Chris Hipkins, Education
Name of package Education (Export Education Levy) Regulations 2011 Revocation Order 2021
Date considered 29 November 2021
Date of release 09 February 2022

These documents have been proactively released:

Cabinet paper: Education (Export Education Levy) Regulations 2011 Revocation Order 2021

Date considered: 29 November 2021
Author: Minister of Education

Cabinet Minute: CAB-21-MIN-0505

Date considered: 29 November 2021
Author: Cabinet Office

Cabinet Minute: LEG-21-MIN-0197

Date: 25 November 2021
Author: Cabinet Office

1275901 Briefing Note LEG paper: Education (Export Education Levy) Regulations 2011 Revocation Order 2021

4 November 2021
Ministry of Education

Material redacted

Some deletions have been made from the documents in line with withholding grounds under the Official Information Act 1982. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

The applicable withholding grounds under the Act are as follows:

Section 9(2)(a) to protect the privacy of natural persons

Some deletions have been made from the documents as the information withheld does not fall within scope of the Minister's portfolio responsibilities, and is not relevant to the proactive release of this material.

You can read the Official Information Act 1982 here:

<http://legislation.govt.nz/act/public/1982/0156/latest/DLM64785.html>

In Confidence

Office of the Minister of Education
Chair, Cabinet Legislation Committee

Education (Export Education Levy) Regulations 2011 Revocation Order 2021

Proposal

- 1 This paper seeks authorisation for submission to the Executive Council of the Education (Export Education Levy) Regulations 2011 Revocation Order 2021 (attached).

Policy

- 2 On 6 October 2021, the Cabinet Business Committee agreed to remove the obligation to pay the Export Education Levy (EEL) for the 2022 calendar year (CBC-21-MIN-0109).
- 3 In response to COVID-19, EEL payment obligations were cancelled for international fee-paying students enrolled between 1 January 2020 and 31 December 2021. This suspension of EEL obligations was actioned in the Education and Training Act 2020.
- 4 The EEL is payable by any education provider that enrolls international fee-paying students. The EEL is set at 0.89% of international student tuition fee income for private training establishments (PTEs), and 0.50% for all other providers. Removing the obligation to pay the EEL for an additional year provides a signal of support to the international education sector.
- 5 I considered several ways to give effect to CBC's decision to suspend the EEL for 2022. The most legally sound option is to revoke the current regulations and, in due course, when required, make new regulations to impose an export education levy. Making new regulations will provide the opportunity to incorporate insights from the review of the EEL currently underway.
- 6 The expected financial impact of suspending the EEL for the 2022 calendar year is \$1.3m. This is based on not collecting levies from an estimated 15,000 fee paying international students. \$6.61m has already been appropriated from the COVID-19 Response and Recovery Fund (CRRF) to cover former EEL expenditure for the 2021/22 financial year. I will work through additional funding needs in this area as part of Budget 2022 decisions.

Timing and 28-day rule

- 7 It is intended that the Education (Export Education Levy) Regulations 2011 Revocation Order 2021 come into force on 1 January 2022.

Compliance

- 8 The Education (Export Education Levy) Regulations 2011 Revocation Order 2021 complies with each of the following:
- 8.1 the principles of the Treaty of Waitangi;
 - 8.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
 - 8.3 the principles and guidelines set out in the Privacy Act 2020 (if the regulations raise privacy issues, indicate whether the Privacy Commissioner agrees that they comply with all relevant principles);
 - 8.4 relevant international standards and obligations;
 - 8.5 the Legislation Guidelines (2018 edition), which are maintained by the Legislation Design and Advisory Committee.
- 9 Section 641(3) of the Act requires the Minister must consult signatory providers before making regulations to impose an export education levy. This statutory prerequisite has been met.

Regulations Review Committee

- 10 There are no grounds for the Regulations Review Committee to draw the Education (Export Education Levy) Regulations 2011 Revocation Order 2021 to the attention of the House of Representatives under Standing Order 327.

Certification by Parliamentary Counsel

- 11 The Education (Export Education Levy) Regulations 2011 Revocation Order 2021 were certified by the Parliamentary Counsel Office (PCO) as being in order for submission to Cabinet.

Impact Analysis

- 12 A Regulatory Impact Assessment was prepared in accordance with the necessary requirements, and was submitted at the time that Cabinet Business Committee approval was sought of the policy relating to the regulations (CBC-21-MIN-0109).

Publicity

- 13 My office will work with education officials to communicate this proposal.

Proactive release

- 14 I intend to proactively release this Cabinet paper once Cabinet decisions have been made.

Consultation

- 15 New Zealand Qualifications Authority, The Ministry of Business, Innovation and Finance, Tertiary Education Commission, Education New Zealand, Parliamentary Counsel Office and Treasury have been consulted. The Department of Prime Minister and Cabinet has been informed.
- 16 Tertiary International Education providers and sector groups have been consulted. Feedback on the EEL consultation revealed that all respondents supported the policy intent of EEL suspension. There were many responses indicating the importance of reducing costs while they face lower international student numbers.

Recommendations

I recommend that the Cabinet Legislation Committee:

- 1 **note** that on 6 October 2021 the Cabinet Business Committee agreed to remove the obligation to pay the Export Education Levy (EEL) for the 2022 calendar year (CBC-21-MIN-0109);
- 2 **note** that Education (Export Education Levy) Regulations 2011 Revocation Order 2021 will give effect to the decision referred to in paragraph 1 above;
- 3 **note** that section 641(3) of the Education and Training Act 2020 requires that the responsible Minister be satisfied that consultation with signatory providers has occurred before recommending the making of an Order in Council under section 641(1);
- 4 **note** the advice of the Minister of Education that the consultation requirement has been met;
- 5 **authorise** the submission to the Executive Council of the Education (Export Education Levy) Regulations 2011 Revocation Order 2021;
- 6 **note** that the Education (Export Education Levy) Regulations 2011 Revocation Order 2021 will come into force on 1 January 2022.

Authorised for lodgement

Hon Chris Hipkins
Minister of Education



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 26 November 2021

On 29 November 2021, Cabinet made the following decisions on the work of the Cabinet Legislation Committee for the period ended 26 November 2021:

Out of scope

LEG-21-MIN-0197 **Education (Export Education Levy) Regulations 2011 CONFIRMED**
Revocation Order 2021
Portfolio: Education

Out of scope

Out of scope



Out of scope

Michael Webster
Secretary of the Cabinet

Proactively Released



Cabinet Legislation Committee

Minute of Decision

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Education (Export Education Levy) Regulations 2011 Revocation Order 2021

Portfolio **Education**

On 25 November 2021, the Cabinet Legislation Committee:

- 1 **noted** that on 6 October 2021 the Cabinet Business Committee (CBC) agreed to remove the obligation for international fee-paying students to pay the Export Education Levy (EEL) for the 2022 calendar year [CBC-21-MIN-0109];
- 2 **noted** that Education (Export Education Levy) Regulations 2011 Revocation Order 2021 will give effect to the decision referred to in paragraph 1 above;
- 3 **noted** that section 641(3) of the Education and Training Act 2020 requires that the responsible Minister be satisfied that consultation with signatory providers has occurred before recommending the making of an Order in Council under section 641(1);
- 4 **noted** the advice of the Minister of Education that the consultation requirement has been met;
- 5 **authorised** the submission to the Executive Council of the Education (Export Education Levy) Regulations 2011 Revocation Order 2021 [PCO 24209/4.0];
- 6 **noted** that the Education (Export Education Levy) Regulations 2011 Revocation Order 2021 will come into force on 1 January 2022.

Rebecca Davies
Committee Secretary

Present:

Hon Chris Hipkins (Chair)
Hon David Parker
Hon Poto Williams
Hon Kris Faafoi
Hon Jan Tinetti
Hon Kiri Allan
Hon Dr David Clark
Keiran McNulty, MP (Senior Government Whip)

Officials present from:

Office of the Prime Minister
Officials Committee for LEG