

Cabinet Paper material

Proactive release

Minister & portfolio Hon Chris Hipkins. Minister of Education
Name of package Education (Export Education Levy) Regulations 2022
Date considered 28 November 2022
Date of release 19 January 2023

These documents have been proactively released:

Cabinet Minute: LEG-22-MIN-0207

Date Considered: 24 November 2022 Author:
Author: Cabinet Office

Cabinet Minute: CAB-22-MIN-0536

Date considered: 28 November 2022
Author: Cabinet Office

Cabinet Paper: Education (Export Education Levy) Regulations 2022

Annex: Education (Export Education Levy) Regulations 2022
Date considered: 11 November 2022
Author: Minister of Education

Material redacted

The applicable withholding grounds under the Act are as follows:

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>



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 25 November 2022

On 28 November 2022, Cabinet made the following decisions on the work of the Cabinet Legislation Committee for the period ended 25 November 2022:

Out of scope		
		CONFIRMED
LEG-22-MIN-0207	Education (Export Education Levy) Regulations 2022 Portfolio: Education	CONFIRMED
Out of scope		
		Out of scope

Out of scope	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Rachel Hayward
Secretary of the Cabinet

Proactively Released



Cabinet Legislation Committee

Minute of Decision

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Education (Export Education Levy) Regulations 2022

Portfolio **Education**

On 24 November 2022, the Cabinet Legislation Committee:

- 1 **noted** that in October 2022, the Cabinet Social Wellbeing Committee agreed to reintroduce the Education Export Levy at 2019 levy rates [SWC-22-MIN-0176];
- 2 **noted** that the Education (Export Education Levy) Regulations 2022 give effect to the decision referred to in paragraph 1 above;
- 3 **authorised** the submission to the Executive Council of the Education (Export Education Levy) Regulations 2022 [PCO 25109/7.0];
- 4 **noted** that the Education (Export Education Levy) Regulations 2022 come into force on 1 January 2023;

Rebecca Davies
Committee Secretary

Present:

Hon Chris Hipkins (Chair)
Hon Poto Williams
Hon Jan Tinetti
Hon Dr David Clark
Hon Kieran McAnulty
Dr Duncan Webb, MP

Officials present from:

Office of the Prime Minister
Officials Committee for LEG

In Confidence

Office of the Minister of Education

Chair, Cabinet Legislation Committee

Education (Export Education Levy) Regulations 2022

Proposal

- 1 This paper seeks authorisation for submission to the Executive Council of the Education (Export Education Levy) Regulations 2022.

Policy

- 2 Due to the emergence of COVID-19 and border restrictions, EEL payment obligations were suspended for international fee-paying students enrolled between 1 January 2020 and 31 December 2022.
- 3 On 6 October 2021, the Cabinet Business Committee agreed to remove the obligation to pay the EEL for the 2022 calendar year (CBC-21-MIN-0109). This was implemented by revoking the regulations with the intention to when required, make new regulations to impose an Export Education Levy (LEG-21-SUB-0197).
- 4 The policy proposal is to reinstate the Export Education Levy, at the same rate as in 2019 when the levy was suspended due to the impact of COVID-19 on international education.
- 5 The Export Education Levy (EEL) is an industry levy paid by any education provider that enrolls international fee-paying students, this means universities, schools, Te Pūkenga, private training establishments (PTEs) and Wānanga will pay the levy. Providers are charged a portion of tuition fees paid by international students.
- 6 On 19 October Cabinet Social Wellbeing Committee agreed to reintroduce the levy for 1 January 2023 (SWC-22-MIN-0176). The committee also agreed to set the EEL rate at 2019 levels of 0.89 percent of tuition fees for Private Training Establishments and 0.50 percent for other sub-sectors.
- 7 The expected financial impact is for the levy to raise \$6m over the next three years, which should cover the highest priority activities normally funded from the Export Education Levy. Expected EEL revenue is uncertain as it will depend on the speed of recovery in international student enrolment.
- 8 The Education (Export Education Levy) Regulations 2022 implement committee decisions by:
 - 8.1 Imposing the Export Education Levy
 - 8.2 Setting the amount of the levy

- 8.3 Setting when the levy is payable
- 8.4 Requirements on providers to supply information.

Timing and 28-day rule

- 9 It is intended that the Education (Export Education Levy) Regulations 2022 come into force on 1 January 2023.

Compliance

- 10 The Education (Export Education Levy) Regulations 2022 comply with each of the following:
 - 10.1 the principles of the Treaty of Waitangi;
 - 10.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
 - 10.3 the principles and guidelines set out in the Privacy Act 2020
 - 10.4 relevant international standards and obligations;
 - 10.5 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.
- 11 Section 641(3) of the Education and Training Act 2020 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

- 12 There are no grounds for the Regulations Review Committee to draw the disallowable instrument or regulations to the attention of the House of Representatives as a Standing Order requirement.

Certification by Parliamentary Counsel

- 13 The Education (Export Education Levy) Regulations 2022 were certified by the Parliamentary Counsel Office (PCO) as being in order for submission to Cabinet.

Impact Analysis

- 14 A Regulatory Impact Assessment was prepared in accordance with the necessary requirements and was submitted at the time that Social Wellbeing Committee approval was sought for the policy relating to the regulations (SWC-22-MIN-0176).

Publicity

- 15 The Ministry of Education will communicate the reintroduction of the levy to the sector by notifying key stakeholders and peak bodies directly. A notice will also be included in the School Bulletin.

- 16 I intend to Gazette the 2022 Regulations on 1 December once Cabinet decisions have been made.

Proactive release

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

Consultation

- 18 New Zealand Qualifications Authority, The Ministry of Business, Innovation and Employment, Tertiary Education Commission, Education New Zealand, Parliamentary Counsel Office and Treasury have been consulted. The Department of Prime Minister and Cabinet has been informed.
- 19 The Ministry of Education has consulted with International Education providers on the policy of reintroducing the levy. The key themes from the consultation were support for delaying the reintroduction until 2024, and feedback that there is little support for the EEL from international education providers. Many submissions make the case for reducing activities, and government funding of the priority activities.

Recommendations

I recommend that the Cabinet Legislation Committee:

- 1 **note** that on 19 October the Social Wellbeing Committee agreed to reintroduce the Education Export Levy at 2019 levy rates [SWC-22-MIN-0176];
- 2 **note** that the Education (Export Education Levy) Regulations 2022 will give effect to the decision referred to in paragraph 1 above;
- 3 **authorise** the submission to the Executive Council of the Education (Export Education Levy) Regulations 2022;
- 4 **note** that the Education (Export Education Levy) Regulations 2022 come into force on 1 January 2023;

Authorised for lodgement

Hon Chris Hipkins

Minister of Education

Education (Export Education Levy) Regulations 2022

Order in Council

At Wellington this day of 2022

Present:
in Council

These regulations are made under section 641 of the Education and Training Act 2020—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister of Education made after consulting signatory providers.

Contents

	Page
1 Title	2
2 Commencement	2
3 Interpretation	2
4 Transitional, savings, and related provisions	2
5 Application of regulations	2
6 Export education levy imposed	2
7 Amount of levy	2
8 When levy payable	3
9 Who administers levy, and who it is payable to	3
10 Signatory providers to supply information to administrator of levy	3

Schedule 5

Transitional, savings, and related provisions

Regulations

1 Title

These regulations are the Education (Export Education Levy) Regulations 2022.

2 Commencement

These regulations come into force on 1 January 2023.

3 Interpretation

In these regulations, unless the context otherwise requires,—

levy means an export education levy

year means a period of 12 months commencing on 1 January.

4 Transitional, savings, and related provisions

The transitional, savings, and related provisions (if any) set out in the Schedule have effect according to their terms.

5 Application of regulations

In calculating the amount of levy payable under these regulations, no account may be taken of any tuition fees payable in respect of any period before 1 January 2023.

6 Export education levy imposed

- (1) Every signatory provider who receives tuition fees from international students in any year must pay an export education levy in respect of that year.
- (2) However, a signatory provider is not required to pay a levy in respect of a particular year if every international student from whom the signatory provider receives tuition fees in that year is either—
 - (a) a student who is sponsored by the New Zealand Aid Programme administered by the Ministry of Foreign Affairs and Trade; or
 - (b) a student whose study with the signatory provider is carried on outside New Zealand.

7 Amount of levy

- (1) The amount of levy payable for any year by each signatory provider that is required to pay a levy is,—
 - (a) for a signatory provider that is a registered establishment, 0.89% of the tuition fees received by the signatory provider from international students in respect of that year; and

- (b) for a signatory provider that is not a registered establishment, 0.50% of the tuition fees received by the signatory provider from international students in respect of that year.
- (2) The levy is not payable for fees paid by any student referred to in regulation 6(2)(a) or (b).
- (3) The levies are exclusive of goods and services tax.

8 When levy payable

- (1) The levy for any year is payable by signatory providers that are schools as follows:
 - (a) for enrolments between 1 January and 30 April of that year (inclusive), no later than 31 July of that year:
 - (b) for enrolments between 1 May and 31 July of that year (inclusive), no later than 31 October of that year:
 - (c) for enrolments in that year that are not covered by paragraph (a) or (b), no later than 31 January of the following year.
- (2) The levy for any year is payable by all other signatory providers as follows:
 - (a) for enrolments between 1 January and 30 April of that year (inclusive), no later than 30 May of that year:
 - (b) for enrolments between 1 May and 31 August of that year (inclusive), no later than 30 September of that year:
 - (c) for enrolments between 1 September and 31 December of that year (inclusive), no later than 16 February of the following year.

9 Who administers levy, and who it is payable to

- (1) The Ministry is the administrator of the levy.
- (2) The levy is payable to the Ministry.

10 Signatory providers to supply information to administrator of levy

- (1) Every signatory provider that is a school must, as soon as practicable after a request by the Ministry in respect of a particular year, advise the Ministry of—
 - (a) the number of international students enrolled at the school between 1 January and 30 April of that year (inclusive) and the amount of tuition fees paid in respect of that year by each of those students; and
 - (b) the number of international students enrolled at the school between 1 May and 31 July of that year (inclusive) and the amount of tuition fees paid in respect of that year by each of those students; and
 - (c) the number of international students enrolled at the school during that year that are not covered by paragraph (a) or (b) and the amount of tuition fees paid in respect of that year by each of those students.

- (2) Every other signatory provider must, as soon as practicable after a request by the Ministry in respect of a particular year, advise the Ministry of—
- (a) the number of international students enrolled with the signatory provider between 1 January and 30 April (inclusive) of that year, and the amount of tuition fees paid in respect of that year by each of those students; and
 - (b) the number of international students enrolled with the signatory provider between 1 January and 31 August (inclusive) of that year, and the amount of tuition fees paid in respect of that year by each of those students; and
 - (c) the number of international students enrolled with the signatory provider between 1 January and 31 December (inclusive) of that year, and the amount of tuition fees paid in respect of that year by each of those students.

Schedule

Transitional, savings, and related provisions

r 4

Part 1

Provisions relating to these regulations as made

There are no transitional, savings, or related provisions in these regulations as made.

Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 1 January 2023, impose an export education levy payable in respect of any year from 1 January 2023 onwards.

The levy is payable by all signatory providers who receive tuition fees from international students, other than students who are sponsored by the New Zealand Aid Programme administered by the Ministry of Foreign Affairs and Trade or who study overseas.

The levy is 0.89% for registered establishments and 0.50% for all other signatory providers (for example, schools, polytechnics, and universities). The Ministry of Education administers the levy.

Regulatory impact statement

The Ministry of Education produced a regulatory impact statement on 12 October 2022 to help inform the decisions taken by the Government relating to the contents of this instrument.

A copy of this regulatory impact statement can be found at—

- <https://www.education.govt.nz/international-students/>
- <https://treasury.govt.nz/publications/informationreleases/ris>

Issued under the authority of the Legislation Act 2019.

Date of notification in *Gazette*:

These regulations are administered by the Ministry of Education.