



Customs and Excise (Border Processing Levy) Amendment Order 2021

Patsy Reddy, Governor-General

Order in Council

At Wellington this 22nd day of February 2021

Present:

The Right Hon Jacinda Ardern presiding in Council

This order is made under section 413 of the Customs and Excise Act 2018—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister of Customs made after consultation in accordance with section 413(4) of that Act.

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Order

1 Title

This order is the Customs and Excise (Border Processing Levy) Amendment Order 2021.

2 Commencement

This order comes into force on 26 March 2021.

3 Principal order

This order amends the Customs and Excise (Border Processing Levy) Order 2015 (the **principal order**).

4 Clause 3 amended (Interpretation)

In clause 3, replace the definition of **levy period** with:

levy period means—

- (a) the initial levy period; or
- (b) the period of 36 months beginning with 1 July 2018 and ending with 30 June 2021 (the **second levy period**); or
- (c) the period beginning with 1 July 2021 and ending with a day, selected by the chief executive, that is not less than 5 months and not more than 36 months after the period begins (the **third levy period**); or
- (d) a period—
 - (i) beginning with the start of the day that immediately follows the close of the third levy period or the close of a levy period under this paragraph; and
 - (ii) ending with a day, selected by the chief executive, that is not more than 36 months after the period begins

5 Clause 5 amended (Levy rates for later levy periods)

(1) Replace clause 5(2) with:

(2) The chief executive must, before the levy period begins,—

- (a) decide the duration of the levy period; and
- (b) set the rates of levy referred to in subclause (3) for the levy period in accordance with clauses 6 to 9.

(2A) Despite subclause (2) and clauses 6 to 9,—

- (a) the rates of levy set for, and applying immediately before the close of, the second levy period are the rates that are set for the third levy period;
- (b) if the third levy period is less than 36 months long, the chief executive may, before the close of the third levy period, extend the third levy period by notice in the *Gazette*. However, the third levy period, even if extended, must not exceed 36 months.

(2) In clause 5(4), replace “subclause (2)” with “this clause”.

(3) Replace clause 5(5) with:

(5) The chief executive must, before the levy period begins, notify by notice in the *Gazette*—

- (a) the duration of the levy period; and
 - (b) each rate of levy set under subclause (2) that is higher or lower than the corresponding rate for the previous levy period.
- (4) After clause 5(6), insert:
- (7) Subclauses (2)(a) and (5)(a) do not apply to the second levy period.
- 6 Clause 10 amended (Resetting of levy rates)**
- After clause 10(5), insert:
- (6) This clause may not be used to reset a rate of levy for the third levy period.

Michael Webster,
Clerk of the Executive Council.

Explanatory note

This note is not part of the order, but is intended to indicate its general effect.

This order, which comes into force on 26 March 2021, amends the Customs and Excise (Border Processing Levy) Order 2015 (the **principal order**). Under the principal order, the levies payable by certain travellers are set and notified in advance of each levy period (generally speaking, a period of 36 months).

The changes in this order relate to levy periods. The effect of the changes is that the chief executive of the New Zealand Customs Service will be able to select the length of future levy periods (subject to a maximum of 36 months for each levy period). This is intended to give greater flexibility; for example, to reflect rapid changes in passenger numbers as a consequence of COVID-19.

The order also provides for the levy rates that apply in the current levy period (ending 30 June 2021) to apply in the next levy period (beginning on 1 July 2021), without the need for new levy rates to be set in accordance with clauses 6 to 9 of the principal order. Clause 10 of the principal order, which provides that a rate of levy may be reset because of unanticipated circumstances, cannot be used to reset the rates applying in that next levy period.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 25 February 2021.
This order is administered by the New Zealand Customs Service.