



Customs and Excise (Border Processing Levy) Amendment Order (No 2) 2021

Cindy Kiro, Governor-General

Order in Council

At Wellington this 26th day of October 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 (No 2) 2021.

2 Commencement

This order comes into force on 25 November 2021.

3 Principal order

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

4 Clause 3 amended (Interpretation)

In clause 3, definition of **levy period**, paragraph (d), replace “a period—” with “a period (whether decided under clause 5 or 10A)—”.

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

In clause 5(6), after “unanticipated circumstances”, insert “, and clause 10A, which provides that new rates of levy may be set and a new levy period may be commenced before the current levy period has ended because of unanticipated circumstances”.

6 Clause 6 amended (Levy rate for arriving travellers other than arriving cruise ship travellers)

In clause 6(3), replace “\$7.80” with “\$17.42”.

7 Clause 7 amended (Levy rate for arriving cruise ship travellers)

In clause 7(3), replace “\$10.40” with “\$16.44”.

8 Clause 8 amended (Levy rate for departing travellers other than departing cruise ship travellers)

In clause 8(3), replace “\$3.10” with “\$4.75”.

9 Clause 9 amended (Levy rate for departing cruise ship travellers)

In clause 9(3), replace “\$4.10” with “\$5.97”.

10 New clause 10A inserted (Setting new levy rates and commencing new levy period before current levy period has ended)

After clause 10, insert:

10A Setting new levy rates and commencing new levy period before current levy period has ended

- (1) This clause applies if the chief executive is satisfied that it is appropriate to set a new rate of levy and commence a new levy period before the current levy period has ended because of circumstances that were not anticipated by the chief executive when—
 - (a) setting the rate of levy and deciding the duration of the current levy period under clause 5(2); or
 - (b) last resetting the rate of levy for the current levy period under clause 10(2).
- (2) The chief executive may set a new rate for any of the rates of levy payable under this order whether or not the requirements in subclause (1) are met in all cases.
- (3) The chief executive must, as soon as is reasonably practicable,—
 - (a) decide the date at the end of which the current levy period will end; and
 - (b) decide the duration of the new levy period; and
 - (c) set a new rate of levy for 1 or more rates of levy for the new levy period in accordance with clause 6, 7, 8, or 9 (as the case may be); and
 - (d) by notice in the *Gazette*, notify—
 - (i) the end date for the current levy period; and
 - (ii) the duration of the new levy period; and
 - (iii) the rates of levy that will apply in the new levy period (whether changed under this clause or not).
- (4) A rate of levy set under this clause is exclusive of goods and services tax.
- (5) A levy period decided and a rate of levy set under this clause are to be treated as if they were decided or set under clause 5.

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 25 November 2021, amends the Customs and Excise (Border Processing Levy) Order 2015 (the **principal order**).

Clauses 6 to 9 amend the maximum levy rates in clauses 6 to 9 of the principal order. The new maximum rates will be available for setting new levy rates for the new levy period beginning on 1 December 2021.

Clause 10 inserts *new clause 10A* into the principal order. This will allow the chief executive to, in the future, bring a current levy period to a close, begin a new levy period, and set new levy rates to apply in the new levy period. The chief executive will be able to do so in the same circumstances that apply under clause 10 of the principal order, which permits the resetting of a levy rate in a current levy period. The circumstances must have arisen after a levy rate was last set or reset and not have been anticipated by the chief executive at that time. However, under *new clause 10A*, the chief executive may set a new rate for any of the levy rates payable under the principal order whether or not the requirements in that clause are met in all cases. This is intended to give greater flexibility, for example, to reflect rapid changes in passenger numbers as a consequence of the effects of COVID-19.

Cost recovery impact assessment

The New Zealand Customs Service produced a cost recovery impact assessment on 7 September 2021 to help inform the decisions taken by the Government relating to the contents of this instrument.

A copy of this cost recovery impact assessment can be found at—

- <https://www.customs.govt.nz/about-us/news/important-notice/changes-to-border-processing-levies/>
- <https://treasury.govt.nz/publications/informationreleases/ris>

Issued under the authority of the Legislation Act 2019.

Date of notification in *Gazette*: 28 October 2021.

This order is administered by the New Zealand Customs Service.