



## Proactive Release

The following documents have been proactively released by the Department of the Prime Minister and Cabinet (DPMC), on behalf of Hon Andrew Little, Minister of Health:

### **Health and Disability System Reform Briefings February – June 2022**

The following documents have been included in this release:

**Title of paper:** Policy Decisions for Pae Ora Bill Departmental Report: Talking Points

**Title of paper:** Health Reforms: Quality Functions in the Future System

**Title of paper:** Progress on Health System Functions Transfer

**Title of paper:** Health Reforms: Policy Critical Path to Day 1

**Title of paper:** Health Reforms: Key Policy Decisions and Delegation

**Title of paper:** Implementing the Intervention Framework for the Reformed Health System

**Title of paper:** Health Research in the Future System

**Title of paper:** Progress Update on Public Health Transformation Programme

**Title of paper:** Pae Ora Legislation Committee Report

**Title of paper:** Supplementary Order Paper for Pae Ora (Healthy Futures) Bill

**Title of paper:** Update on the Transfer of Functions from Ministry of Health to New Entities

**Title of paper:** Appendices to the Interim Government Policy Statement

**Title of paper:** Health Reforms: Role of Localities in the Reformed System

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant section of the Act that would apply has been identified. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

### **Key to redaction codes:**

- Section 9(2)(a), to protect the privacy of individuals;
- Section 9(2)(f)(iv), to maintain the confidentiality of advice tendered by or to Ministers and officials;
- Section 9(2)(g)(i), to maintain the effective conduct of public affairs through the free and frank expression of opinion; and
- Section 9(2)(h), to maintain legal professional privilege.



# Briefing

## SUPPLEMENTARY ORDER PAPER FOR PAE ORA (HEALTHY FUTURES) BILL

To: Hon Andrew Little, Minister of Health

Date	6/05/2022	Priority	Routine
Deadline	9/05/2022	Briefing Number	DPMC-2021/22-2099

### Purpose

This paper is to confirm content for the Government Supplementary Order Paper for the Pae Ora (Healthy Futures) Bill.

### Recommendations

1. **Note** that the Committee of the Whole House stage of the Pae Ora (Healthy Futures) Bill is scheduled for 1 June 2022.
2. **Note** an SOP is being prepared to put forward minor amendments, including amendments you have identified.
3. **Agree** to a consequential amendment to the Medicines Act 1981 to exempt Health New Zealand from the limit on the number of pharmacies a person may own or operate.. **YES / NO**
4. **Agree** to amend the alcohol levy provision so that other income received by the Ministry is not required to be deducted from the annual levy amount. **YES / NO**
5. **Agree** to amend the Bill to provide that a reference in a visa condition to a DHB must be read as a reference to Health New Zealand. **YES / NO**
6. **Agree** to amend the Bill to provide that the Health Charter sets out values, principles, and behaviours that health entities (not just workers) are expected to demonstrate. **YES / NO**
7. **Agree** to amend the Bill to provide a general power to make regulations necessary or allowable for the purposes of the Bill (PCO has suggested this). **YES / NO**

8. **Note** the SOP will also propose minor drafting corrections and improvements identified by PCO or the TU, and will reorder the GPS and strategy provisions.

9. **Indicate** whether you wish us to pursue any other changes via SOP. **YES / NO**

10. **Note** we anticipate a final SOP for your approval by 13 May 2022.

*S. McKernan*

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Stephen McKernan  
**Director, Health Transition Unit**

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06/05/2022

Hon Andrew Little  
**Minister of Health**

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**Contact for telephone discussion if required:**

Name	Position	Telephone	1st contact
Stephen McKernan	Director, Health Transition Unit	s9(2)(a)	
Simon Medcalf	Health Team Lead	s9(2)(a)	✓

**Minister's office comments:**

- Noted
- Seen
- Approved
- Needs change
- Withdrawn
- Not seen by Minister
- Overtaken by events
- Referred to

# SUPPLEMENTARY ORDER PAPER FOR PAE ORA (HEALTHY FUTURES) BILL

## Executive summary

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1. The Pae Ora (Healthy Futures) Bill is scheduled to be considered in the Committee of the Whole House on 1 June 2022. In discussion with PCO, the Ministry of Health and Immigration New Zealand, we have identified amendments we consider essential to ensure the reformed system can operate as intended on 1 July. PCO and the Transition Unit have also identified other minor amendments and error corrections. Additionally, you have advised amendments you require.
2. We have instructed PCO to prepare a supplementary order paper with amendments to be advanced in the Committee, subject to your agreement, on the following areas:
  - a) An exemption for Health New Zealand from the Medicines Act 1981 restriction that no person may own or operate more than five pharmacies.
  - b) An amendment to the alcohol levy provision so that other revenue does not need to be deducted from the annual levy amount.
  - c) A provision requiring references to DHBs in visa conditions to be read as references to Health New Zealand.
  - d) An amendment to the provisions relating to the Health Charter to be clear that publicly-owned health entities are expected to work with workers to implement the Charter.
  - e) A catch-all regulatory provision to reflect the general provision in the New Zealand Public Health and Disability Act 2000, as suggested by PCO.
  - f) Other minor amendments including the reordering of the provisions relating to the GPS and health strategies.
3. We do not consider any of the proposed amendments constitute a policy change that would need to be referred to Cabinet. If you agree, PCO will finalise drafting in the week beginning 9 May, and we anticipate providing you a final version on 13 May for approval and tabling at your convenience.
4. Four other SOPs have been tabled. Three propose new legislated health strategies: rural health, medicines (ACT) and rainbow health (Greens). The fourth, from ACT, proposes amendments to remove the Māori Health Authority from the legislation entirely. All current SOPs advance amendments that have already been rejected by the government. We will advise on other SOPs as they are tabled. We have prepared a separate letter to Dr Kerekere declining to support the Greens SOP, but affirming the importance of improving rainbow health.

## Purpose

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5. This paper sets out minor recommended amendments to be moved on the floor of the House in the Committee of the Whole Stage.

## Detail of proposed amendments

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### Pharmacy ownership limit exemption

6. We propose an amendment to the Medicines Act 1981 to exempt Health New Zealand from the limit on the number of pharmacies a person may own.
7. Hospital pharmacies are licensed individually to ensure safety, rather than a general license being granted to a DHB or private hospital provider. The Medicines Act limits ownership of pharmacies so that no person is permitted to operate or have a majority interest in more than five pharmacies. This has not been an issue for DHBs, none of whom operate more than four pharmacies. However, on establishment, Health New Zealand will own and operate about 30 pharmacies in various hospitals. In order to ensure hospital pharmacies can legally continue to operate as they do now, an exemption will be required.

### Alcohol levy refinements

8. We propose an amendment so that revenue received by the Ministry of Health does not have to be deducted from the annual alcohol levy.
9. The alcohol levy provisions have been replicated from the New Zealand Public Health and Disability Act 2000, except that the Ministry of Health has been substituted for the Health Promotion Agency.
10. There is a potential complication with this, in that the levy-setting provision requires the Minister to deduct the income expected from interest on investment and third-party revenue from the annual levy. This was because the Health Promotion Agency had a small annual investment income, which was used to promote alcohol harm reduction, and the cost-recovery nature of the levy meaning it must reflect actual costs. However, the Ministry will have no alcohol levy related income, except the levy itself, but has significant income from fees (for example from medicines registration and radiation license fees) in areas unrelated to alcohol.

11. s9(2)(h)  
  
We recommend an amendment deleting the requirement to deduct other income.

### Employment related visas

12. We recommend an amendment providing that any reference to a DHB in a condition on a visa issued under the Immigration Act 2009 must be read as a reference to Health New Zealand.

13. A significant number of DHB staff are in New Zealand under the accredited employer scheme. That means their residence is conditional on employment by the named DHB, and it is an offence for anyone other than the named DHB to employ them. The Bill contains a general provision requiring references to a DHB in any document or instrument to be read as references to Health New Zealand. However, Immigration New Zealand has advised us that visas are neither a document nor an instrument, so a specific provision is required. This would be similar to schedule 1, cl 32 of the Education and Training Act 2020. There may be some Ministry staff transferring from the departmental agencies who require a similar provision; we are investigating and will advise with the final SOP.

### Health Charter

14. We recommend a change to the current description of the Health Charter in clause 51 of the Bill to add health entities to the description, so the charter is a statement of the values, principles, and behaviours that **health entities**, and workers throughout the health sector are expected to demonstrate.
15. In the introduction version of the Bill, health entities were required to have regard to the Charter when planning and contracting services. Post introduction, the TU and Public Service Commission engaged with workers, unions and organisations on the Charter. The outcome of that engagement was that the Charter was reframed as a sector-led document reflecting the agreed values of the health workforce, rather than a compliance document. The Charter would set out how they would give effect to the health sector principles, and was intended to apply to the entire health workforce, public and private. Amendments were made accordingly, broadening the coverage, and removing the reference to health entities and annual reporting obligations. Any necessary direction for health entities was expected to be achieved through the Government Policy Statement and New Zealand Health Plan.
16. Health sector unions have sought more certainty about these provisions, in particular seeking an express statement that health entities are expected to support the Charter. While we do not consider this change to be strictly necessary, given the other mechanisms in the Bill to direct health entities, we do not consider the change likely to have a negative effect on the implementation of the Charter. There is a risk the Charter could be regarded as only applying to publicly-owned organisations, but that can be addressed through contracting arrangements.

### Māori Health Authority function description

17. We recommend removing the reference in clause 19 (1) (ga) to the Māori Health Authority commissioning public health services in collaboration with the Public Health Agency.
18. The relevant section recommended by the Pae Ora Legislation Committee reads: “undertake and promote public health measures, including commissioning services to deliver public health programmes on its own initiative or in collaboration with the Public Health Agency”
19. The wording of this provision has caused some confusion. It was inserted in response to public submissions asking that the Māori Health Authority have public health related functions. These were suggested to include working with the Public Health Agency to advise the Minister or commissioning public health functions from its own budget. In practice, because the Public Health Agency is not expected to directly commission



services, the precise meaning of collaborate is unclear to agencies. In any event, the Authority is freely able to work with the Public Agency, and expected to do so, without a specific statutory authority. We recommend deleting the text after 'public health programmes'.

### General regulation making-power

20. We recommend amending the Bill to add a general regulation-making power. This has been suggested by PCO.
21. In initial drafting, we did not carry over the general regulation-making power from the New Zealand Public Health and Disability Act. That Act had a provision authorising regulations "providing for any other matters contemplated by this Act or necessary for its administration or necessary for giving it full effect". The power has never been used and we considered it was unlikely to be necessary and might appear an unreasonable power.
22. However, PCO has suggested it and provided their now-standard wording. The provision would authorise regulations "(i) providing for anything this Act says may or must be provided for by regulations; (ii) providing for anything incidental that is necessary for carrying out, or giving full effect to, this Act". In the light of that, we recommend including the provision as suggested. Any regulation made under the general power would be subject to Parliamentary review and potential disallowance.

### Minor drafting fixes

23. Several minor issues have been identified in drafting, that we recommend addressing via the SOP. For example, the Medicines Act cross-refers to the to-be repealed inquiry provisions of the New Zealand Public Health and Disability Act, rather than the equivalent provisions of the Inquiries Act 2013.
24. You have also indicated you wish to reorder the Bill so the provisions related to the government policy statement precede those related to health strategies. We have instructed PCO accordingly.
25. We will seek your agreement to the minor changes with the final SOP, rather than individually.

### Other SOPs

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26. As of 6 May, four SOPs have been tabled. They contain amendments that advance previously stated party positions that have not been supported by the government.
  - a) SOP 151 (Brooke van Velden) contains amendments adding a requirement for the Minister to determine a rural health strategy.
  - b) SOP 152 (Brooke van Velden) contains amendments adding a requirement for the Minister to determine a rural health strategy.
  - c) SOP 153 (Brooke van Velden) contains amendments removing all reference to the Māori Health Authority from the Bill.



d) SOP 154 (Dr Elizabeth Kerekere) contains amendments adding a requirement for the Minister to determine a rainbow health strategy.

27. Dr Kerekere has written to you seeking support for the addition of a rainbow strategy. A letter of response is attached to this briefing. The letter declines support for the amendments, but expresses support for improved services for rainbow people and notes the investment from last year's Budget.

28. We will advise on any additional SOPs as they are tabled.

### **Next steps**

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29. PCO intend to finalise the SOP in the week beginning 9 May. Unless you have further changes you wish to make in the Committee stage, we expect to provide the final SOP to your office on 13 May for tabling at your convenience.

### **Communications**

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30. We do not intend any proactive communications activity.

Proactively Released

