

The Treasury

Ending the Temporary Suspension of Regulatory Impact Analysis (RIA) Requirements, and Introducing New RIA Provisions for Future Emergencies

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Cabinet Government Administration and Expenditure Review Committee

Minute of Decision

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Ending the Temporary Suspension of Regulatory Impact Analysis (RIA) Requirements and Introducing New RIA Provisions for Future Emergencies

Portfolio **Finance**

On 18 June 2020, the Cabinet Government Administration and Expenditure Review Committee:

- 1 **noted** that in March 2020, Cabinet:
 - 1.1 agreed to suspend the Regulatory Impact Analysis (RIA) requirements for emergency regulatory proposals relating directly to COVID-19 to allow these proposals (with some conditions) to proceed to Cabinet without accompanying RIS until 31 August 2020;
 - 1.2 noted that officials would develop advice on standing provisions for RIA in times of emergency;

[CAB-20-MIN-0138]
- 2 **agreed** to end the temporary RIA suspension on 30 June 2020, as the most urgent regulatory changes related directly to COVID-19 have now been made by Cabinet;
- 3 **agreed** that the COVID-19 experience has shown that Cabinet’s Impact Analysis requirements would be strengthened by including an enduring exemption provision specifically designed for urgent regulatory changes in an emergency;
- 4 **agreed** to introduce additional “technical” exemptions into Cabinet’s Impact Analysis requirements, so that a Regulatory Impact Statement is not required for any government proposal to:
 - 4.1 make, amend, or modify or suspend the effect of, primary or secondary legislation, under powers only able to be exercised during a declared emergency or emergency transition period;
 - 4.2 temporarily defer or extend legislative deadlines, provide limited temporary exemptions or modifications to existing legislative requirements, or temporarily enable alternative methods of legislative compliance, in situations where a declared emergency has made compliance with the existing legislative requirements impossible, impractical or unreasonably burdensome;

- 4.3 temporarily defer the start date of legislative requirements not yet in force, in order to reduce burdens or where the Government or affected entities will no longer be ready by the planned start date, as a result of an emergency;
- 5 **agreed** to introduce an additional “discretionary” exemption into Cabinet’s Impact Analysis requirements, for situations where the Treasury is satisfied that regulatory changes, not covered by existing “technical” or minor impacts exemptions, are:
- 5.1 intended to manage, mitigate or alleviate the short-term impacts of a declared emergency event or the direct actions taken to protect the public in response to such an event; and
- 5.2 required urgently to be effective (making robust and timely RIA unfeasible);
- 6 **noted** that existing discretionary exemptions under Cabinet’s Impact Analysis requirements may be subject to conditions, such as the inclusion, provision and/or publication of some alternative information or limited impact analysis in alternative form;
- 7 **agreed** that other conditions under which a discretionary exemption for urgent regulatory changes can be given are a commitment to include a suitable sunset provision and/or to undertake a post-implementation assessment or review on agreed terms and timing;
- 8 **agreed** that a post-implementation assessment or review can be an acceptable alternative to a mandatory Supplementary Analysis Report for urgent but non-exempt regulatory proposals proceeding to Cabinet with inadequate or missing Impact Analysis;
- 9 **noted** that the new technical and discretionary RIA exemptions in paragraphs 4, 5 and 7 above are capable of covering the most common types of urgent legislative change sought as part of the government’s response to COVID-19;
- 10 **agreed** that the Treasury oversee any necessary brief transition from the temporary RIA suspension to the enduring exemption provisions for emergencies, based on a departmental best endeavours approach;
- 11 **noted** that, as the government’s attention increasingly turns to Wave 3 of the economic response to COVID-19 (reset and revitalise), there will be greater need on occasions for Ministers and officials to identify and consider:
- 11.1 the potential impacts of regulatory proposals on different affected population groups or business segments, including small businesses;
- 11.2 the resilience of our regulatory systems and regulatory proposals to future disruption and change;
- 12 **noted** that the Minister of Finance has asked officials to consider and report back to him on whether any further adjustments to Cabinet’s Impact Analysis requirements or Regulatory Stewardship expectations may be warranted to assess these impacts in a proportionate, targeted, timely and cost-effective way.

Rachel Clarke
Committee Secretary

Present: (see over)

Present:

Hon Grant Robertson (Chair)
Hon Chris Hipkins
Hon Ron Mark
Hon Tracey Martin
Hon Shane Jones
Hon Peeni Henare
Hon James Shaw

Officials present from:

Office of the Prime Minister
Officials Committee for GOV