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Office of the Minister for COVID-19 Response
Chair, Legislation Committee

COVID-19 RESPONSE LEGISLATION BILL – POLICY APPROVALS

Proposal

- 1 This paper seeks agreement to policy decisions for the development of a COVID-19 Response Legislation Bill which will implement legislative changes that are necessary as a consequence of the increase in alert levels in response to the outbreak of cases of COVID-19 in the community.

Relation to Government priorities

- 2 The amendments proposed in the bill are consistent with the Government's priorities of keeping New Zealanders safe from COVID-19 and accelerating the economic recovery.

Executive Summary

- 3 The Bill proposes amendments to various Acts with the general purpose of managing issues that have been created or exacerbated by the increases to COVID-19 Alert Levels in New Zealand in August and September 2021.
- 4 The Acts to which amendments are proposed are as follows:

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Residential Tenancies Act 1986	Housing	To allow tenants to remain at their current place of residence despite the termination of their residential tenancy
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5 The Bill will be an omnibus bill.

Background

6 Two similar bills have been passed by the House in response to COVID-19

6.1 The COVID-19 Response (Further Management Measures) Legislation Bill, enacted on 15 May 2020.

6.2 The COVID-19 Response (Further Management Measures) Legislation Bill (No 2), enacted on 6 August 2020.

Analysis

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s 9(2)(g)(i)

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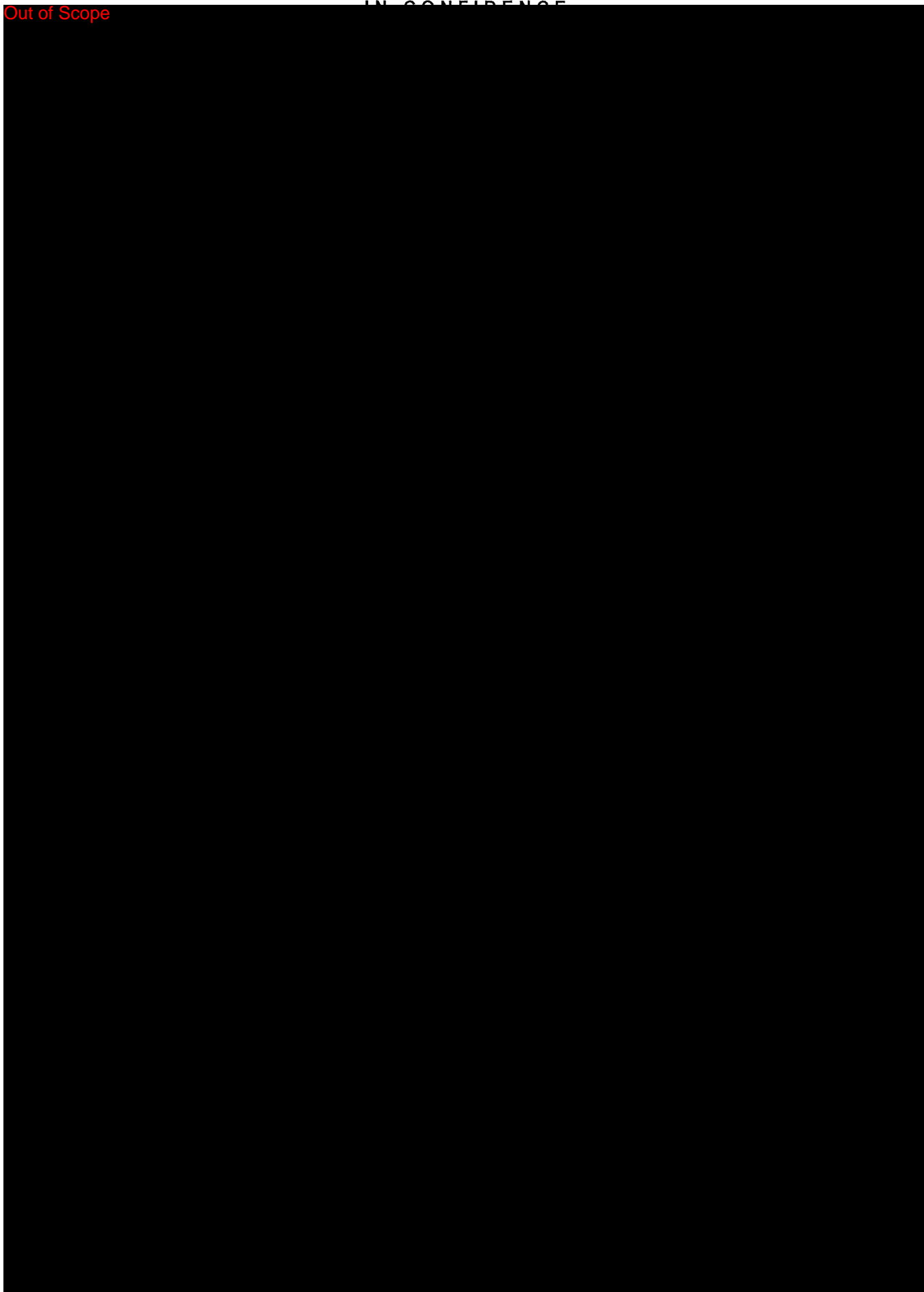


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Residential Tenancies Act 1986

- 68 On 7 September 2021, the COVID-19 Ministerial Group agreed to amend the RTA to:
- 68.1 enable the Minister to make 'COVID-19 tenancies orders' which restrict tenancy terminations during any current or future outbreak of COVID-19;
 - 68.2 include provisions setting out the tenancy termination restrictions which apply when COVID-19 tenancies orders are in force; and
 - 68.3 enable the Tenancy Tribunal to conduct proceedings on the papers, for a period of twelve months after commencement of the amendments, to assist in addressing the backlog of applications due to the current outbreak of COVID-19.
- 69 Ministers invited the Associate Minister of Housing (Public Housing) to issue drafting instructions to Parliamentary Counsel Office (PCO) to give effect to the proposals and authorised the Associate Minister to make decisions, consistent

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with the proposals on any issues which arise during the drafting process without reference to Cabinet.

[CMG-21-MIN-0017]

70 s 9(2)(g)(i) [Redacted]

71 s 9(2)(h) [Redacted]

72 Accordingly, agreement is sought that COVID-19 tenancy termination restrictions, enabled through legislative amendments to the RTA, would preserve certain tenancies in place at the time a COVID-19 tenancies order commences (regardless of whether a termination notice had been served, or the Tenancy Tribunal had made an order for termination, or an agreement had been made to terminate, but the notice, order, or agreement had not taken effect, and the tenant was still residing in the premises).

73 s 9(2)(h) [Redacted]

Out of Scope [Redacted]

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Impact Analysis

Regulatory Impact Statement

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Residential Tenancies Act 1986 amendments

- 88 Due to the urgent nature of the legislative amendments proposed, a Regulatory Impact Statement is not included with these proposals.
- 89 HUD has prepared a Supplementary Analysis Report (SAR) in relation to the December 2020 Cabinet paper, Economic response to future resurgences of COVID-19 (CAB-20-MIN-0521). The SAR assesses proposals to make amendments to the RTA if there was a widespread re-emergence of COVID-19 in the community and a re-escalation in Alert Levels.
- 90 The SAR has not been published. It will be updated and published later.

Other amendments in this Cabinet paper

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Consultation

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- 101 In relation to the RTA amendments, Te Tūāpapa Kura Kāinga - the Ministry of Housing and Urban Development consulted with: the Ministries of Business, Innovation and Employment, Health, Justice, Social Development, and Pacific Peoples; the Treasury; Te Puni Kōkiri; Parliamentary Counsel Office and the Department of Prime Minister and Cabinet. Kāinga Ora was also consulted.

Proactive Release

- 102 This paper will be proactively released within 30 business days of Cabinet decisions.

Recommendations

The Minister for COVID-19 Response recommends that the Committee:

- 1 **note** that, this Bill is not part of the 2021 Legislation Programme [CAB Min (21) 0144 refers];

Amendments to principal Acts

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- 16 **note** the COVID-19 Ministerial Group has made decisions in relation to the Cabinet paper, *Policy decisions for amending the Residential Tenancies Act 1986 in response to COVID-19 outbreaks* to amend the Residential Tenancies Act 1986 (RTA) to enable the Minister to make COVID-19 tenancies orders restricting terminations during any current or future outbreak of COVID-19, and to allow the Tenancy Tribunal to conduct its proceedings on the papers for a 12-month period [CMG-21-MIN-0017];

s 9(2)(g)(i)



- 18 **note** that in relation to the decision referred to in paragraph 17 above , the advice of officials is that:

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18.1 s 9(2)(h)

18.2 s 9(2)(g)(i)

- 19 **rescind** the decision referred to above in paragraph 17;
- 20 **agree** any COVID-19 tenancy termination restrictions, enabled through legislative amendments to the RTA, would preserve certain tenancies in place at the time a COVID-19 tenancies order commences (regardless of whether a termination notice had been served, or the Tenancy Tribunal had made an order for termination, or an agreement had been made to terminate, but the notice, order, or agreement had not taken effect, and the tenant was still residing in the premises);
- 21 **note** that the RTA COVID-19 amendments as per recommendation 20 above will have a prospective (i.e. not retrospective) commencement date;
- 22 **agree** the COVID-19 RTA amendments expire three years after commencement.
- 23 **note** that on 9 September 2021, the COVID-19 Ministerial Group (CMG):

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Further policy decisions

- 31 **authorise** the Minister for COVID-19 Response to make final decisions in relation to minor policy decisions arising during the development of the Bill;
- 32 **note** that the Associate Minister of Housing (Public Housing) has delegated authority for to make decisions, consistent with the proposals on any issues which arise during the drafting process without reference to Cabinet for RTA changes

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- 34 **invite** the Leader of the House to issue drafting instructions to the Parliamentary Counsel Office to draft a bill to give effect to the decisions in the recommendations above.

Authorised for lodgement

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Hon Chris Hipkins
Minister for COVID-19 Response