



COVERSHEET

Minister	Hon Stuart Nash	Portfolio	Small Business
Title of Cabinet paper	Order in Council requiring New Zealand Business Numbers for COVID-19 Resurgence Support Payments Scheme and the Digital Boost Programme	Date to be published	29 March 2021

List of documents that have been proactively released

Date	Title	Author
February 2021	Order in Council requiring New Zealand Business Numbers for COVID-19 Resurgence Support Payments Scheme and the Digital Boost Programme	Office of the Minister for Small Business
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Information redacted

YES / NO [select one]

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In Confidence

Office of the Minister for Small Business

Chair, Cabinet Legislation Committee

ORDER IN COUNCIL: REQUIRING NEW ZEALAND BUSINESS NUMBERS FOR THE COVID-19 RESURGENCE SUPPORT PAYMENTS SCHEME AND THE DIGITAL BOOST PROGRAMME

Proposal

1. This paper seeks Cabinet's agreement to authorise the submission of the attached Order in Council to the Executive Council. This Order in Council will authorise Inland Revenue to require any entity applying for a grant under the COVID-19 Resurgence Support Payments Scheme to provide their New Zealand Business Number. It will also authorise the Ministry of Business Innovation and Employment to require NZBNs from all applicants for services under the Digital Boost Programme.

Background

Resurgence Support Payments Scheme

2. On 14 December 2020, Cabinet agreed to the establishment of a COVID-19 Resurgence Support Payments Scheme. Cabinet noted that, in the event of COVID-19 Alert Level escalations, a comprehensive package of economic support is critical to minimise the associated economic and social impacts, and to support compliance with the public health response (CAB-20-MIN-0531 refers).
3. Cabinet authorised me, along with the Minister of Finance and the Minister of Revenue to jointly take decisions relating to further design details and operational matters required to progress the implementation of the Scheme. One decision we have taken is to require applicants to the Scheme to provide their New Zealand Business Number (NZBN).

Digital Boost Programme

4. Digital technologies facilitate domestic and international commerce without travel or contact, grow weightless goods and services exports, and support New Zealand's emission reduction goals. Digital ways of working increase productivity and resilience, making businesses and government more efficient, and enabling both to exploit cutting edge advances in technology and innovation. The technology sector is already our third largest exporter, with ICT alone representing \$6.7 billion worth of revenue in 2019.
5. As part of the overall COVID Recovery programme, a small Digital Enablement (Digital Boost) programme for small businesses was developed with the assistance of Ministerial Small Business Advisors and digital industry experts. The current Digital

Boost programme comprises the \$10 million from the COVID-19 Recovery Budget, plus \$5 million from the Tourism Recovery Fund, and will run to 30 June 2021.

6. The Digital Boost programme is working with the private sector to provide New Zealand small businesses with:
 - 6.1 core digital business skills training to 50,000 small businesses within a year (for less than \$8M);
 - 6.2 a market-place for relevant SME digital business tools, applications and services; and
 - 6.3 access to discounted and subsidised digital tools, applications and services to help SMEs adopt digital ways of working and business practices.
7. These initiatives have begun delivery in January/February 2021, and with ongoing additional contributions from the private sector (BNZ, Xero, Microsoft, Google, Facebook, Datacom, MYOB, Spark, the Warehouse and others) is likely to provide value to SMEs in excess of the Digital Boost's current \$15M budget for FY2020/21.

Policy

8. NZBNs are unique identifiers that link each entity to its core business information. This enables easier interactions between a business and the Government, as well as between businesses.
9. NZBNs are regulated under the New Zealand Business Number Act 2016 (the Act). One provision of that Act provides that a Government agency can require an entity to provide an NZBN as part of a process if that agency has been authorised by an Order in Council.
10. In accordance with the Act, I therefore propose that Inland Revenue and MBIE be authorised by Order in Council to require NZBNs from all applicants for grants under the Resurgence Support Payments Scheme and the Digital Boost Programme. The regulations do not authorise Inland Revenue and MBIE to require NZBNs to be provided for any other purpose.

Requirements of the NZBN Act

11. As part of the Order in Council process, the Act requires that I give consideration to the advantages and disadvantages of authorising Inland Revenue and MBIE to require applicants to provide NZBNs.

Resurgence Support Payments Scheme

12. A summary of the advantages is as follows:
 - 12.1 Requiring NZBNs under the Resurgence Support Payments Scheme is an integrity measure. While these scheme operate as a high-trust model with limited scope for checking of applications. Requiring NZBNs is beneficial as it acts as a deterrent to fraudulent applications.

- 12.2 The Small Business Cashflow Scheme (SBCS) also requires applicants to give their NZBN so requiring this for the RSP Scheme provides consistency across COVID-supports.
 - 12.3 Requiring NZBNs for the Scheme also helps to promote the use of NZBNs by businesses in other interactions with Government and businesses, which will have long-term benefits as these sorts of interactions become increasingly digital. These benefits are described in more detail below.
13. A summary of the disadvantages is as follows:
- 13.1 The requirement may impose compliance costs on organisations that are not automatically allocated an NZBN or are not sure if they have one. Inland Revenue will assist businesses by providing, in the application process, a link to the NZBN site that lets an applicant check an existing NZBN or obtain one.
 - 13.2 For those that do not have an NZBN but choose to obtain one to access the Scheme, there may be a delay in the applicant being paid the grant because they are waiting for an NZBN. However, because of the lag between the escalation of Alert Levels and activation of the Scheme (because applications have to reference **actual** data of their revenue drop), any delay should not be problematic. More detail about the application process is set out below.

Digital Boost Programme

14. A summary of the advantages is as follows:
- 14.1 Requiring NZBNs under the scheme is an integrity measure. While the Digital Boost programme generally runs a high trust model, requiring NZBN numbers is beneficial as it is a form of deterrent to fraudulent applications.
 - 14.2 Requiring NZBNs for the Digital Boost programme also helps to promote the use of NZBNs by businesses in other interactions with Government and businesses, which will have long-term benefits as these sorts of interactions become increasingly digital.
15. A summary of the disadvantages is as follows:
- 15.1 The requirement may impose compliance costs on organisations that are not automatically allocated an NZBN or are not sure if they have one. MBIE is assisting businesses by providing, in the application process, a link to the NZBN site that lets an applicant check an existing NZBN or obtain one free of charge.
 - 15.2 For those that do not have an NZBN but choose to obtain one to access the Digital Boost programme, there may be a delay in the applicant accessing training or other services because they are waiting for an NZBN. MBIE is prepared for any expected spike in NZBN applications to minimise any potential delays.
16. On balance, I believe that the advantages are substantial and the disadvantages are sufficiently mitigated, as described above.

17. The Act also requires that I give consideration to the costs imposed on Inland Revenue and MBIE if they are authorised to require applicants to provide NZBNs. These costs have already been taken into account by Inland Revenue and MBIE and are a negligible proportion of the total cost of administering the Resurgence Support Payments Scheme and the cost of administering the Digital Boost Programme.

Consultation with the Privacy Commissioner

18. In accordance with the Act, the Privacy Commissioner was consulted and agrees that requiring NZBNs for the COVID-19 Resurgence Support Payments Scheme and the Digital Boost Programme does not compromise the privacy protections for individuals provided for under the NZBN Act.

Benefits of the NZBN

19. At present, there are multiple unique numbers allocated to businesses operating in New Zealand. Therefore, businesses need to remember many identifiers to interact with Government agencies – including Inland Revenue (IR) tax numbers, Companies Office identifiers, Accident Compensation Corporation (ACC) numbers, and New Zealand Customs and Ministry for Primary Industry (MPI) usernames and logon credentials.
20. An NZBN removes that complexity in that it gives businesses one number with which to interact with the Government. It reduces the need to repeatedly provide core information to different Government agencies. This has the potential to increase clarity, certainty, and confidence for small-to-medium enterprises and significantly enhance the ease of doing business in New Zealand.
21. The benefits of an NZBN are also broader than simplifying businesses' dealings with Government. It helps a business show their customers and suppliers they are real. NZBN is integral to e-commerce initiatives, such as e-invoicing, and is an underpinning feature of a digital future. Through network effects, these benefits will grow as more businesses have and use their NZBN.

Accessing an NZBN

22. All "registered" organisations already have an NZBN. This includes companies, charitable trusts, and incorporated societies. Some organisations are not aware they have an NZBN. They can check whether they have an NZBN and what it is at www.nzbn.govt.nz.
23. Unincorporated entities, such as sole traders, self-employed persons, and unlimited partnerships, do not automatically have an NZBN, though many of them already do. All such entities that are in business are entitled to have one.
24. Those that do not already have an NZBN can apply for one online. The online application process is automated and 80% of applicants receive their NZBN immediately. The remaining 20% require manual intervention, usually because there is a discrepancy in the identity information that they have supplied that needs to be resolved.

Timing and 28-day rule

25. I propose that Cabinet authorise the submission to the Executive Council of an Order in Council giving effect to the requirement to provide an NZBN in a grant application under the Scheme. In order to ensure these regulations are in effect as soon as possible, I propose that they come into force on 23 February 2021.

To achieve a commencement date of 23 February 2021, I recommend that the 28-day rule be waived for the coming into force of these regulations. It is important that this requirement is effective as soon as possible. This is because requiring entities to provide an NZBN in their application will help to deter the submission of fraudulent applications under the Scheme. Without a waiver of the 28-day rule, these regulations will come into force on 26 March 2021 which would be potentially after the Scheme has been activated.

26. The regulations comply with each of the following:
- 26.1 the principles of the Treaty of Waitangi;
 - 26.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - 26.3 the principles and guidelines set out in the Privacy Act 1993 (the Office of the Privacy Commissioner was consulted and agrees with the recommendations in this paper);
 - 26.4 relevant international standards and obligations; and
 - 26.5 the Legislation Guidelines (2018 edition), which are maintained by the Legislation Design and Advisory Committee.

Regulations Review Committee

27. There are no anticipated grounds for the Regulations Review Committee to draw the regulations to the attention of the House.

Certification by Parliamentary Counsel

28. The Parliamentary Counsel Office has certified that the attached regulations are in order for submission to the Executive Council.

Impact Analysis

29. The RIA team at the Treasury has determined that the proposal to require businesses to have an NZBN in order to access the Resurgence Support Payment is exempt from the requirement to produce a Regulatory Impact Statement on the basis that it has minor impacts on businesses, individuals, and not-for-profit entities. The Resurgence Support Payment proposal as a whole has been analysed in a Supplementary Analysis Report completed by Treasury and IR (IR2020/34 and T2020/132 refers).
30. The Regulatory Quality Team at the Treasury has determined that the regulatory proposals in this paper in relation to the Digital Boost Programme are exempt from the

requirement to provide a Regulatory Impact Statement on the basis that they have no or minor impacts on businesses, individuals or not for profit entities.

31. The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to the above proposals as there is no direct emissions impact.

Publicity

32. Notice of the regulations will be published in the Gazette.

Proactive Release

33. This paper will be included in a future proactive release of documents associated with COVID-19.

Consultation

34. Inland Revenue and The Treasury were consulted in the preparation of this Cabinet paper and agree with its recommendations.
35. In accordance with the Act, I have consulted with the Office of the Privacy Commissioner and I have taken into account the potential privacy effects of the authorisation. The Privacy Commissioner agrees with the recommendations in this paper.

Recommendations

The Minister for Small Business recommends that Cabinet:

1. **note** that an Order in Council, made under the New Zealand Business Number Act 2016, can authorise a Government agency to require an entity to which it provides services to provide the agency an New Zealand Business Number (NZBN);
2. **note** that on 14 December 2020, Cabinet agreed to the establishment of the COVID-19 Resurgence Support Payments Scheme (CAB-20-MIN-0531 refers);
3. **note** that Cabinet authorised the Minister of Finance, the Minister of Revenue, and the Minister for Small Business (Joint Ministers for the Resurgence Support Payments Scheme) to jointly take decisions relating to further design details and operational matters for the COVID-19 Resurgence Support Payment;
4. **note** that the Joint Ministers for the Resurgence Support Payments Scheme agreed to require applicants to provide their NZBN;
5. **note** that on 11 May 2020, Cabinet agreed to establish a tagged operating contingency of up to \$10 million in Vote: Business, Science and Innovation, for 'Supporting Small Businesses into Digital Commerce' to support small businesses to move into digital commerce and support their long-term business transformation. (CAB-20-MIN-0219.04 refers);

6. **note** that the Minister for Small Business proposes that entities applying for support under the Digital Boost programme must provide their NZBN;
7. **note** that the Minister has meet the requirements of the Act to make recommendations 4 and 6;
8. **note** that the New Zealand Business Number (Authority to Require NZBN) Amendment Regulations 2021 will give effect to recommendations 4 and 6;
9. **note** that a waiver of the 28-day rule is sought:
 - 9.1 so that the regulations can come into force on 23 February 2021;
 - 9.2 on the grounds that requiring applicants to provide their NZBN will help prevent fraudulent applications, and that not allowing a waiver may provide an opportunity for fraudulent applications should the Scheme be activated prior to the expiry of the 28 days;
10. **authorise** the submission to the Executive Council of the New Zealand Business Number (Authority to Require NZBN) Amendment Regulations 2021.

Authorised for lodgement

Hon Stuart Nash
Minister for Small Business

New Zealand Business Number (Authority to Require NZBN) Amendment Regulations 2021

Governor-General

Order in Council

At Wellington this day of 2021

Present:
in Council

These regulations are made under section 29(1) of the New Zealand Business Number Act 2016—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister for Small Business made in accordance with section 29(2) of that Act.

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Regulations

1 Title

These regulations are the New Zealand Business Number (Authority to Require NZBN) Amendment Regulations 2021.

2 Commencement

These regulations come into force on 23 February 2021.

3 Principal regulations

These regulations amend the New Zealand Business Number (Authority to Require NZBN) Regulations 2020 (the **principal regulations**).

4 Regulation 3 amended (Interpretation)

- (1) In regulation 3, repeal the definitions of **scheme**, and **specified eligible entity**.
- (2) In regulation 3, after the definition of **IRD**, insert:
MBIE means the Ministry of Business, Innovation, and Employment

5 Regulation 4 replaced (IRD may require applicants to provide NZBN)

Replace regulation 4 with:

4 IRD may require NZBN for small business cashflow scheme

- (1) IRD is authorised to require an SBCS applicant to register for an NZBN and to provide their NZBN to IRD.
- (2) In this regulation, **SBCS applicant** means an eligible entity that applies to IRD for a loan under the small business cashflow scheme (as defined in section 7AA of the Tax Administration Act 1994)

5 IRD may require NZBN for COVID-19 resurgence support payments scheme

- (1) IRD is authorised to require a CRSP applicant to register for an NZBN and to provide their NZBN to IRD.
- (2) In this regulation, **CRSP applicant** means an eligible entity that applies to IRD for a payment under the COVID-19 resurgence support payments scheme (as defined in section 3 of the Tax Administration Act 1994).

6 MBIE may require NZBN for small business digital boost initiative

- (1) MBIE is authorised to require a digital boost applicant to register for an NZBN and to provide their NZBN to MBIE.
- (2) In this regulation—
digital boost applicant means an eligible entity that applies to MBIE for support under the digital boost scheme

digital boost scheme means the small business digital boost initiative provided by MBIE, or an entity on behalf of MBIE that, provides access to digital skills training, digital business advisory services, support, or digital tools.

Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations are made under section 29 of the New Zealand Business Number Act 2016. Section 29 provides for a government agency to be authorised to require an entity that is eligible for an NZBN (an **eligible entity**), and to which the agency provides services, to register for an NZBN (if they don't already have one) and to provide their NZBN to the agency.

The New Zealand Business Number (Authority to Require NZBN) Regulations 2020 (the **principal regulations**) set out when agencies may require an eligible entity to obtain and provide an NZBN.

These regulations, which come into force on 23 February 2021, will amend the principal regulation to authorise an NZBN to be required in the following cases:

- IRD will be able to require an NZBN from an applicant for payments under the COVID-19 resurgence support payments scheme
- MBIE will be able to require an NZBN from an applicant for support under the small business digital boost initiative.

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*:

These regulations are administered by the Ministry of Business, Innovation, and Employment.