



COVERSHEET

Minister	Hon Chris Hipkins	Portfolio	COVID-19 Response
Title of Cabinet paper	COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Amendment Regulations (No 5) 2021	Date to be published	28 March 2022

List of documents that have been proactively released

Date	Title	Author
December 2021	COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Amendment Regulations (No 5) 2021	Office of the Minister for COVID-19 response
9 December 2021	COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Amendment Regulations (No 5) 2021 LEG 21-MIN-0214 Minute	Cabinet Office

Information redacted

NO [select one]

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[In Confidence]

Office of the Minister for COVID-19 Response

Chair, Cabinet Legislation Committee

COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Amendment Regulations (No 5) 2021

Proposal

- 1 This paper seeks authorisation for submission to Executive Council of the COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Amendment Regulations (No 5) 2021.

Background

- 2 As at 15 November 2021, 586 Afghan evacuees have arrived in New Zealand and entered Managed Isolation and Quarantine (MIQ), with a further 151 individuals expected to arrive in the next two weeks. There are 401 individuals in the Nesuto hotel in Auckland and 39 individuals (18 families) in MIQ, with the remainder having moved into either temporary or permanent accommodation within the community.
- 3 Under the current border settings international travellers arriving in New Zealand (including Afghan evacuees) are required to enter Managed Isolation and Quarantine (MIQ) and are likely to be liable for MIQ charges.

Policy

- 4 Many evacuees arriving from Afghanistan are vulnerable and with few financial resources. Unplanned expenses in a crisis (such as MIQ charges) are likely to cause distress to individuals who have already experienced significant trauma and stress.
- 5 On 8 November 2021, Cabinet agreed to amend the COVID-19 Public Health Response (managed Isolation and Quarantine Charges) Regulations 2020 (the Regulations) to include a Ministerial class waiver power for groups of people included in the Afghanistan resettlement response [CAB-12-MIN-0454 refers].
- 6 The proposed amendment to the Regulations will authorise the Minister responsible for COVID-19 response to waive in whole or part of the payment of MIQ charges of any class of persons who arrive in New Zealand as part of Afghanistan resettlement response and are required to stay at a Managed Isolation and Quarantine Facility (MIQF).

- 7 The regulations will also authorise the Minister to impose conditions considered necessary on the waiver. A waiver granted under these amendments will be secondary legislation under the Legislation Act 2019 and are required to be published in the Gazette and on a publicly accessible internet site maintained by or on behalf of the New Zealand Government.

Timing and 28-day rule

- 8 A waiver of the 28-day rule is sought so the amendments to the Regulations can come into force as soon as possible. The amendments are minor, have little or no effect on the public and confer only benefits on the public.

Compliance

- 9 The Regulations comply with the:
- 9.1 the principles of the Treaty of Waitangi;
 - 9.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990;
 - 9.3 the principles and guidelines set out in the Privacy Act 2020;
 - 9.4 relevant international standards and obligations;
 - 9.5 the Legislation Guidelines maintained by the Legislation Design and Advisory Committee.
- 10 Section 32B and 32C of the COVID-19 Public Health Response Act 2020 require that before I can recommend making regulations which set charges for MIQ, I must be satisfied of the following matters:
- 10.1 The charges concerned relate to managed isolation or quarantine facility (MIQF) costs (including direct and indirect costs);
 - 10.2 The prescribed charges recover from any class of persons no more than an estimate of the actual and reasonable MIQF costs incurred in relation to that class (including both direct and indirect costs); and
 - 10.3 There is appropriate provision to grant relief from the payment of the prescribed charges in circumstances where payment of the charges would cause undue financial hardship; and
 - 10.4 The prescribed charges do not limit or are justified limits on the rights and freedoms in the New Zealand Bill of Rights Act 1990.
- 11 The proposed amendments relate to MIQF costs but do not change the level of prescribed charges (which themselves are set below the actual costs of MIQ, because they do not include costs of MBIE's partner agencies or other additional reasonable costs).

- 12 The proposed amendments will be an addition to the suite of levers in the fees regime designed to provide relief on undue financial hardship, compassionate or other grounds.
- 13 I am satisfied that the statutory prerequisites mentioned above are met.

Regulations Review Committee

- 14 There are unlikely to be any grounds for the Regulations Review Committee to draw the regulations to the attention of the House of Representatives under Standing Order 327.

Certification by Parliamentary Counsel

- 15 The draft Amendment regulations were certified by Parliamentary Counsel Office (PCO) as being in order for submission to Cabinet, subject to the following:

- 15.1 The statutory prerequisites relating to regulations in the COVID-19 Public Health Response Act 2020 are met; and
- 15.2 The granting of a waiver of the 28-day rule to allow the regulations to come into force on 14 December 2021.

- 16 The draft Amendment regulations are annexed (Annex One).

Impact Analysis

- 17 Treasury's Regulatory Impact Analysis Team has determined that the proposal to include a Ministerial class waiver from Managed Isolation and Quarantine charges for people who are part of the Afghanistan resettlement response is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that it has no or only minor impacts for businesses, individuals and not-for-profit entities.

Publicity

- 18 I intend to announce the amendments to the Regulations once they are in force.

Proactive release

- 19 I intend to proactively release this Cabinet paper, excluding legally privileged material and subject to any redactions consistent with the Official Information Act 1982.

Consultation

- 20 The following government agencies were consulted on the proposals in this paper, the Department of Prime Minister and Cabinet, The Treasury, Ministry of Foreign Affairs and Trade, Ministry for Ethnic Communities and the Ministry of Justice.

- 21 Internal consultation was undertaken with Immigration New Zealand and Immigration Policy.

Recommendations

I recommend that the Cabinet Legislation Committee:

- 1 **note** that on 8 November 2021 Cabinet
 - 1.1 agreed to amend the COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Regulations 2020 to include a Ministerial class waiver power for groups of people included in the Afghanistan resettlement response;
 - 1.2 invited the Minister for COVID-19 response to issue drafting instructions to the Parliamentary Counsel Office to give effect to the above paragraph; and
 - 1.3 authorised the Minister for COVID-19 Response to make decisions consistent with Cabinet's decisions on any technical issues that may arise during the drafting process [CAB-21-MIN-0454.1]
- 2 **note** that the COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Amendment Regulations (No 5) 2021 will give effect to the decision referred to in paragraph 1 above;
- 3 **authorise** the submission to the Executive Council of the COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Amendment Regulations (No 5) 2021;
- 4 **note** that a waiver of the 28-day rule is sought:
 - 4.1 so that the regulations can come into force as soon as possible
 - 4.2 on the grounds that the amendments are minor, have little or no effect on the public and confers only benefits on the public.
- 5 **agree** to waive the 28-day rule so that the regulations can come into force on 14 December 2021;
- 6 **note** that section 32B and 32C of the COVID-19 Public Health Response Act 2020 require that the responsible Minister before recommending the making regulations which set charges for Managed Isolation and Quarantine be satisfied that:
 - 6.1 The charges concerned relate to managed isolation or quarantine facility (MIQF) costs (including direct and indirect costs)
 - 6.2 the prescribed charges recover from any class of persons no more than an estimate of the actual and reasonable MIQF costs incurred in relation to that class (including both direct and indirect costs)

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- 6.3 there is appropriate provision to grant relief from the payment of the prescribed charges in circumstances where payment of the charges would cause undue financial hardship; and
 - 6.4 the prescribed charges do not limit or are justified limits on the rights and freedoms in the New Zealand Bill of Rights Act 1990.
- 7 **note** the advice of the Minister for COVID-19 Response that this requirement has been met.

Authorised for lodgement

Hon Chris Hipkins
Minister for COVID-19 Response

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Annex 1 Draft COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Amendment Regulations (No 5) 2021

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