



AIDE MEMOIRE

MIQ Cabinet papers: Talking points and back pocket Q&A for Cabinet Business Committee on 16 December 2020

Date:	14 December 2020	Priority:	Medium
Security classification:		Tracking number:	2021-1730

Information for Minister

Hon Chris Hipkins

Minister for COVID-19 Response

Contact for telephone discussion (if required)

Name	Position	Telephone	1st contact
Privacy of natural persons	Policy Director, MIQ Policy	Privacy of natural persons	✓
Privacy of natural persons	Policy Advisor, MIQ Policy	Privacy of natural persons	

Minister's office to complete:

Approved

Noted

Seen

See Minister's Notes

Declined

Needs change

Overtaken by Events

Withdrawn

Comments:



AIDE MEMOIRE

MIQ Cabinet papers: Talking points and back pocket Q&A for Cabinet Business Committee on 16 December 2020

Date:	14 December 2020	Priority:	Medium
Security classification:		Tracking number:	2021-1730

Purpose

To provide talking points and Q&A for the Cabinet Business Committee meeting on 16 December 2020, to support your presentation of the following two COVID-19 Response portfolio papers:

- Paper 1: *COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Amendment Regulations 2020*
- Paper 2: *Improvements to the allocation of managed isolation rooms.*

Privacy of natural persons

Policy Director, MIQ Policy

14 / 12 / 2020

Background

1. On Wednesday 16 December 2020, you are presenting two papers for consideration by the Cabinet Business Committee:
 - a. Paper 1: *COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Amendment Regulations 2020*.
 - b. Paper 2: *Improvements to the allocation of managed isolation rooms*.
2. Paper 1 seeks authorisation to submit the COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Amendment Regulations 2020 to Executive Council.
3. The Amendment Regulations give effect to Cabinet's decision to charge critical workers closer to the actual costs of a stay in managed isolation and quarantine (MIQ), and to require employers or supporting agencies of critical workers to pay in advance (where practicable). The paper also seeks agreement to amend the Regulations so that:
 - a. the fee for the first or only person in a room be set at \$4,800 + GST (\$5,520 including GST)
 - b. the fee for a second adult in a room be set at \$2,600 + GST (\$2,990 including GST) and \$1,400 + GST (\$1,610 including GST) for a child
 - c. dependent children of critical workers under 3 years old are not charged
 - d. employers or supporting agencies of critical workers should not be able to apply for a fees waiver on grounds of undue financial hardship or special circumstances
 - e. the fee settings for critical workers will not apply to critical health workers
 - f. the fee settings for critical workers will commence on 1 January 2021 and apply to all critical workers who arrive in New Zealand on or after that date.
4. Paper 2 seeks agreement to implement improved regulatory and operational tools for allocating managed isolation rooms and facilitating entry into New Zealand, including:
 - a. a Government operational target for 10 percent of allocable managed isolation rooms to be used by critical workers
 - b. ring fencing 75 percent of allocable rooms solely for use by New Zealanders, protecting their legal right to return home
 - c. establishing a transparent legal basis for prioritising and allocating rooms to people entitled to enter and whose entry is time critical.
5. To support you at the Cabinet Business Committee meeting, suggested talking points and back pocket Q&A are provided for Paper 1 and Paper 2 in Annex One and Annex Two respectively.

Annexes

Annex One: Paper 1 Talking points and Q&A

Annex Two: Paper 2 Talking points and Q&A

Annex One: Paper 1 Talking points and Q&A

COVID-19 Public Health Response (MIQ Charges) Amendment Regulations 2020

Talking points

The Talking Points in this section are about the Cabinet paper COVID-19 Public Health Response (MIQ Charges) Amendment Regulations 2020 which were prepared and offered by MBIE/MIQ, but they do not necessarily represent messages that the Minister for Covid-19 Response accepted or ever used.

The Talking Points in this section are about the Cabinet paper COVID-19 Public Health Response (MIQ Charges) Amendment Regulations 2020 which were prepared and offered by MBIE/MIQ, but they do not necessarily represent messages that the Minister for Covid-19 Response accepted or ever used.

COVID-19 Public Health Response MIQ Charges Amendment Regulations 2020

Q&A

Why do we want to charge a higher fee for critical workers?

- The current \$3,100 (including GST) fee is significantly less than the average MBIE-related costs across the MIQ network.
- The rationale underpinning the Government subsidising the costs of MIQ and having individuals liable for this fee is not relevant to critical workers. Critical workers do not have a protected right to enter New Zealand, so charging closer to the actual cost of MIQ is not a barrier to that right.
- Continuing to subsidise the costs of MIQ for critical workers to the extent that the government is currently doing would reduce the fiscal headroom that could be used to support the economic recovery.

Why do we want to make employers liable to pay fees?

- Organisations should be expected to cover MIQ charges as part of the business's costs. Critical workers enter New Zealand primarily for economic or job related reasons, and the workers, employers and supporting agencies receive the direct benefits of bringing critical workers into the country.
- It was always the intention of Cabinet to make employers of critical workers liable under the Regulations, but this was initially missed due to the speed in which the Regulations came into force.

How did you come up with the new \$4,800 fee?

- \$4,800 + GST (\$5,520 including GST) is the average weighted cost for a single person in MIQ for 14 days. This only covers MBIE related costs and does not include Health costs or costs for other services provided by partner MIQ agencies. This means the government would still be subsidising a portion of costs for critical workers.

Are critical workers able to room share?

- The operational presumption is that large groups of critical workers will be allocated to individual rooms in MIQ.
- However, where the Ministry of Health and MIQ undertake a risk assessment and permit large groups of critical workers to share rooms, or an individual critical worker is sharing a room with a partner and/or dependent child, reduced rates can apply.
- Where room sharing is allowed, \$2,600 + GST (\$2,990 including GST) will be charged for the second adult in a room, and \$1,400 + GST (\$1,610 including GST) for a child three years and older. I propose that children under 3 years old will not be charged.
- This approach still allows for the possibility of invoicing large groups in advance, however for some large groups the health risk assessment will be in two parts: 1) undertaken in preparation for their arrival 2) a following check on arrival.

Why are you removing fee waivers for critical workers?

- Critical workers do not have a protected right to enter New Zealand. As employers and critical workers receive the direct benefits of bringing critical workers into the country, they

should not be able to apply for a fees waiver on grounds of undue financial hardship or special circumstances.

- Deferred payments and payment by instalment in the case of financial hardship will remain available to all individuals and employers of critical workers.
- Critical health workers will continue to be able to apply for waivers.

Why are you proposing to treat critical health workers differently?

- Any resurgence of COVID-19 in the community may require the need for critical health workers to enter New Zealand quickly. Charging higher fees for MIQ may have impacts on the health workforce, and our ability to quickly scale up resources if required. I have also received feedback from stakeholders that MIQ fees have impacted their ability to recruit international health practitioners to New Zealand.
- For this reason, my intention is that MIQ fees for critical health workers would remain unchanged (e.g. at the current prescribed fee), at least until more is understood about the impact of MIQ fees on the resilience and scalability of the health workforce.

Why are you seeking to waive the 28-day rule?

- A waiver of the 28-day rule is sought so the Regulations can come into force on 1 January 2021. This means all critical workers who arrive on or after 1 January 2021 will be charged the new fee.
- The purpose of the Amendment Regulations is to recover closer to the actual costs of MIQ from the employers and supporting agencies of critical workers. The majority of critical workers entering the country in the next few months will be RSE workers, arriving from mid-January to mid-March. Waiving the 28-day rule is necessary to ensure the new fees settings are in place for RSE workers and are able to be charged in advance of their arrival.
- I am aware that there will be a small proportion of critical workers who have already booked their place in MIAS before the Amendment Regulations come into force, however I judge that a line in the sand is the fairest and practicable way of operationalising the changes.

How will MBIE recover debt if fees are not paid?

- Currently invoices are issued to liable people after they leave MIQ; payment is due 90 days from the date of invoicing. Ordinarily people may apply for a fees waiver at any point before, during, or after their stay. I propose that critical workers will no longer be eligible for a fees waiver.
- The approach to debt recovery is an operational decision which is made by MIQ, provided the approach is consistent with the MIQ fees Regulations and involves the use of normal civil debt recovery measures.
- MIQ, via usual debt management processes, issues reminders at 60 days and every 30 days thereafter. Debt recovery processes are currently implemented after 180 days. The current approach means debt recovery processes will begin to operate from late February 2021 for outstanding invoices issued in August 2020. Enforcement options include sending the debt to a collection agency or, for more significant amounts, pursuing court action.
- For critical workers officials will look at a streamlined invoicing and payment process to reflect the intention of payment up front (or as close to this as is practical).

- The Amendment Regulations provide flexibility to allow for payment in advance where it is practicable. Operational constraints mean it will not be practicable in every case. I have directed officials to specify a **30 day payment period** for invoicing critical workers arriving in groups, and to report back to myself and the Minister of Finance quarterly on the level of fees paid.

What are the risks involved in making changes to the Regulations at pace?

- Making these changes may generate complaints from employers or supporting agencies of critical workers that feel they are paying too much for a facility if it is below the average standard.
- In setting the fees we need to ensure that we do not over recover (as per the legislation) as a class rather than individuals. We are confident that the proposed fee is fair and that the risk of over recovery is low.
- There are also risks that we could be creating an inconsistent fees system with the different levels of fees we now have (no fee for returning New Zealanders, existing fee levels for those liable and a new fee level for critical workers).
- I have asked MBIE to proceed with a wider review of the fees system to address any further inconsistencies. I will report back to Cabinet on this in 2021.

How do the Amendment Regulations relate to your other paper Improvements to the allocation of managed isolation rooms that proposes a 10 per cent target for critical workers?

- The Amendment Regulations will charge the new fees to “other critical workers” and any accompanying partners or dependent children. This is a border exception for economically- and time-critical workers. Government can add class exceptions of critical workers to the definition.
- The 10 per cent target captures a wider range of workers – in addition to “other critical workers” it also covers critical health workers and temporary migrant workers who are normally resident in New Zealand.

Annex Two: Paper 2 Talking Points and Q&A

Improvements to the allocation of managed isolation rooms

The Talking Points in this section are about the improvements to the allocation of managed isolation rooms, which were prepared and offered by MBIE/MIQ, but they do not necessarily represent messages that the Minister for Covid-19 Response accepted or ever used.

The Talking Points in this section are about the improvements to the allocation of managed isolation rooms, which were prepared and offered by MBIE/MIQ, but they do not necessarily represent messages that the Minister for Covid-19 Response accepted or ever used.

Improvements to the allocation of managed isolation rooms

Q&A

Why was MIAS not initially built with the functionality to prioritise the allocation of rooms?

- The MIAS booking system was designed, built and implemented at pace to meet the immediate need to manage demand within available MIQ capacity. In the time available it could not be built to provide the advanced functionality required to be able to prioritise the allocation of MIQ rooms (eg on the basis of citizenship).

Why are you not proposing to reserve 10 percent of Managed Isolation rooms exclusively for critical workers?

- To establish a specific quota in MIAS for exclusively for non-New Zealanders or critical workers would impose a limitation on the legal right that New Zealanders have to enter the country under the New Zealand Bill of Rights Act. This would need to be carefully considered and would require a change to primary legislation (that in-effect 'overrides' the New Zealand Bill of Rights Act).

Why are you proposing a 75 percent ring fence for New Zealanders?

- Reserving 75 percent of available MIQ rooms for New Zealanders and making the remaining 25 percent available online through MIAS (if the 75 percent allocation is exhausted) will help avoid unjustified limitations to the legal right of New Zealanders to enter the country without undue delay.
- The proposed 75 percent reservation for New Zealanders corresponds approximately with actual usage over recent months. It is proposed that actual waiting times for New Zealanders be considered again by myself and the Minister of Immigration, in the New Year before the initial size of the New Zealander reservation is set.

How will you ensure the 10 percent manifesto commitment is achieved?

- Within the current settings we can monitor critical workers' use of managed isolation rooms against the 10 percent operational target and there are levers we can use to influence the target, including:
 - prioritising and allocating rooms to those whose entry is time-critical. Many critical workers will have time-critical travel (emergency allocation process);
 - the release of any unused capacity in the 75 per cent New Zealand ring fence for allocation to non-New Zealanders at relatively short notice;
 - settings in the immigration system, and decisions on group arrivals made by the Border Exceptions Ministers; and
 - the adjustment of the 75 percent New Zealand ring fence if, in the future, changes in other settings (e.g. a bubble with Australia) free up capacity that can be reallocated.

Why are 'critical workers' defined differently in the two papers?

- The definition of 'critical workers' used for both papers is based on the border exceptions that permit workers to enter New Zealand. A broader definition of 'critical workers' is proposed for the 10 percent operational target than for the higher MIQ charges – to capture the range of high-value workers.

- Higher fees are proposed for those entering through the 'other critical workers' border exception, while 'critical health workers' will not be subject to the higher fees. The rationale being that charging 'critical health workers' higher fees for MIQ may impact the health workforce, and our ability to quickly scale up resources if required. I propose that MIQ fees for critical health workers remain unchanged at least until more is understood about the impact of MIQ fees on the resilience and scalability of the health workforce.
- The 10 percent critical worker operational target covers all the border exceptions through which workers enter New Zealand. This includes 'other critical workers', 'critical health workers' and also 'temporary migrant workers ordinarily resident in New Zealand'. Each of these categories applies narrow criteria to enable only those who have skills critical to supporting New Zealand's economic recovery and an urgent need to travel to New Zealand, so should be counted towards our manifesto commitment.
- Partners or dependent children who accompany critical workers are included in both the 10 percent operational target and for higher fees.