



BRIEFING

Quarantine-free travel with the Cook Islands– application of MIQ charges in the event of a suspension

Date:	13 May 2021	Priority:	Medium
Security classification:		Tracking number:	2021-3644

Action sought		
	Action sought	Deadline
Hon Chris Hipkins Minister for COVID-19 Response	<p>Confirm that, in the event of a suspension of quarantine-free travel that required travellers returning from the Cook Islands to enter MIQ, the current MIQ fees regime would apply</p> <p>Agree that this briefing is proactively released with any appropriate withholdings under the Official Information Act 1982.</p>	20 May 2021

Contact for telephone discussion (if required)				
Name	Position	Telephone		1st contact
Kara Isaac	General Manager, MIQ Policy	Privacy of natural persons		✓
Privacy of natural persons	Principal Policy Advisor, System and Strategy, MIQ	Privacy of natural persons		
	Senior Advisor, System and Strategy, MIQ	Privacy of natural persons		

The following departments/agencies have been consulted

Minister's office to complete:

- | | |
|---|--|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Declined |
| <input type="checkbox"/> Noted | <input type="checkbox"/> Needs change |
| <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn |

Comments



BRIEFING

Quarantine-free travel (QFT) with the Cook Islands – application of MIQ charges in the event of a suspension

Date:	13 May 2021	Priority:	Medium
Security classification:		Tracking number:	2021-3644

Purpose

To seek confirmation of the application of MIQ charges in the event of a suspension of the Cook Islands QFT that requires some returning travellers to enter MIQ.

Recommended action

The Ministry of Business, Innovation and Employment (MBIE) recommends that you:

- a) **Note** that QFT with Australia commenced on 19 April 2021, and that two-way QFT with the Cook Islands will commence from 11.59pm on 16 May 2021, subject to final health advice from the Director-General of Health;

Noted
- b) **Note** that in the event of a suspension of a QFT, under the current COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Regulations 2020 (the Regulations), travellers that are directed to enter MIQ on return to New Zealand are liable for MIQ charges, and this has been explicit in QFT communications to date;

Noted
- c) **Note** that under the Regulations, the Chief Executive of MBIE has the power to waive MIQ charges in special circumstances, but applications are considered on a case-by-case basis and it is not certain that affected QFT travellers would qualify;

Noted
- d) **Note** that MBIE officials are part of the on-going all-of-government work to finalise the response framework for the Cook Islands QFT, including the process for suspending travel, and it is possible that a local outbreak could require a mandatory managed return of travellers to New Zealand;

Noted

EITHER

- e) **Confirm** the continuation of the current fees settings for the Cook Islands QFT, whereby travellers required to enter MIQ under a suspension are liable for MIQ fees unless waived by the Chief Executive of MBIE (**recommended**);

Agree / Disagree / Discuss

OR

- f) **Agree** to progress legislative change so that travellers returning from the Cook Islands QFT are not liable to pay for MIQ if they are directed to enter MIQ following a suspension.

Agree / Disagree / Discuss

- g) **Note** that if option (e) is preferred (retain status quo liability for MIQ fees), MBIE will ensure clear communications that highlight traveller responsibility to manage any COVID-19 related travel disruption and associated costs;
- Noted*
- h) **Note** that if option (f) is preferred (legislative change to make QFT travellers required to enter MIQ exempt from charges), then MBIE will prepare a Cabinet paper to amend the Regulations, a process which would take at least five weeks, assuming an expedited timeline;
- Noted*
- i) **Agree** that this briefing is proactively released with any appropriate withholdings under the Official Information Act 1982;

Agree / disagree



Kara Isaac
General Manager
MIQ Policy, MBIE

13.5.21



Hon Chris Hipkins
Minister for COVID-19 Response

28 / 5 / 2021

Background

1. Quarantine free travel (QFT) with Australia commenced on 19 April 2021. The underlying messaging has been that although the government has put in place processes and assurances to make QFT as safe as possible, in a dynamic COVID-19 context, travel is not without risk or guaranteed.
2. QFT communications have been clear that it is the traveller's responsibility to prepare for, and manage any disruption due to COVID-19, including the possibility that a return flight could be delayed and/or there may be requirement to shelter-in-place, or enter a period of managed isolation (or self-isolation) on their return. If a suspension results in a traveller being required to enter MIQ, status quo settings (including MIQ charges) would apply.
3. On 3 May 2021, the government announced that two-way QFT with the Cook Islands would commence from 11.59pm on 16 May 2021, subject to final health advice from the Director-General of Health. Officials are continuing to develop a response framework for the Cook Islands QFT to ensure authorities are prepared to respond to a COVID-19 outbreak.
4. The response framework (subject to final health advice from the Director-General of Health) follows the same principles as those of the Trans-Tasman QFT, but is tailored to take into account differences in the Cook Islands context. For example, there are expected to be limited options to 'shelter in place' in the Cook Islands, and a local outbreak could require a (compulsory) repatriation of travellers to New Zealand in order to ensure that health and other essential services in the Cook Islands are not overwhelmed.

Under the current fees settings, most QFT travellers required to enter MIQ following a QFT suspension would be liable for fees

5. If a QFT arrangement is suspended and some New Zealanders returning home are required under the Air Border Order to enter MIQ, the COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Regulations 2020 (the Regulations) apply.
6. Anyone listed in the Regulations as a 'specified person'¹ would be liable for fees, unless they are part of a specifically exempt group². People required to enter MIQ after the suspension of a QFT arrangement are not currently included in the list of people exempt from fees.
7. The Regulations do provide the Chief Executive of MBIE with the power to waive MIQ charges in cases of undue financial hardship or other special circumstances³. However, waiver applications are considered on a case-by-case basis and take into account all of a person's circumstances (including their reason for travel). As such, it is not guaranteed that all affected QFT travellers would qualify for a waiver.
8. There is currently no ability for you, as the Minister for COVID-19 Response, to waive MIQ charges, however this is something we have proposed in our recent advice about potential changes to the MIQ fees settings [2021-3261 refers].
9. A different circumstance arises if a person has arrived on a QFT flight and is already in the community when a health professional determines that they should enter MIQ. In this situation they would be required to enter MIQ under section 70 of the Health Act 1956, and would not be liable for fees (as the fees regime is only engaged by the COVID-19 Orders)

¹ A New Zealand citizen or resident (or ordinarily resident Australian) who left New Zealand before 11 August 2020 or is returning for more than 90 days (180 days from 1 June 2021); a temporary entry class visa holder, a person arriving on a border exception as a critical worker or critical health worker.

² See Annex 2 for a list of groups exempted from MIQ fees under regulation 8 of the Regulations

³ Special circumstance may include accompanying an excepted person who is unable to travel alone, where a person who has travelled to visit a close relative who is seriously ill or dying or to attend a funeral or tangihanga, or where a person has travelled for the purposes of maintaining medical treatment.

Options for the application of MIQ fees if QFT with the Cook Islands is suspended

10. Given the potentially different approach to managing a suspension of QFT with the Cook Islands (to that of the Trans-Tasman QFT), you may wish to consider a special dispensation for MIQ fees. We have identified the following options for the application of MIQ fees if QFT with the Cook Islands is suspended.

Option 1 – Status quo, travellers are liable to pay for MIQ if QFT with the Cook Islands is suspended [MBIE recommends]

11. Option 1 would see the current settings continue to be applied. This is our recommended approach as it would ensure consistency across our QFT zones (currently just Australia and the Cook Islands, but may include other countries in the future) and overarching QFT messaging (travellers are responsible for managing any disruptions to their travel due to COVID-19).
12. It would align with the primary objective of the MIQ fees regime (to recover some of the costs of MIQ services to make provision more financially sustainable), whilst still providing for those who might struggle to pay the fee. New Zealanders would continue to be able to apply for fee waivers (as described in paragraph seven) as well as to pay by instalment or have their payment deferred.
13. This option would also not require any changes to existing policy and regulatory settings, which would avoid the risk of adding additional complexity to the fees regime through further differentiation between groups.

Option 2 – Progress legislative change so that travellers are not liable to pay for MIQ if QFT with the Cook Islands is suspended

14. If you wish to ensure that travellers are not be liable for MIQ fees in the event of a suspension of QFT with the Cook Islands, you would need to amend the Regulations to create an exemption for travellers in these circumstances. This option would recognise that the response framework for QFT with the Cook Islands is likely to look different to arrangements with Australia.
15. This option would, however, mean that travellers to the Cook Islands would be treated differently to those visiting Australia under QFT, and could set a precedent for future QFT arrangements. It could also raise issues of fairness and consistency with returning New Zealanders from outside of QFT zones who are required to pay MIQ fees. Given these factors, we do not recommend creating a fees exemption for this group.
16. This process would take at least five weeks, assuming an expedited timeline, and would not be able to be introduced and enacted before the QFT zone with the Cook Islands comes into effect at 11.59pm on 16 May 2021.

Next steps

17. MBIE is working with other agencies on the response framework for the Cook Islands QFT, including the managed return of travellers were the QFT to be suspended. This includes plans for self-isolation and, in some cases, the potential need for MIQ. We will continue to brief you on any implications for MIQ emerging from this ongoing planning.
18. If you wish to maintain the current fees liability settings, then MBIE will strengthen its communications to highlight the risk that that an outbreak of COVID-19 could cause a change to the conditions people are travelling under, and their responsibility to manage any COVID-19 related travel disruption and associated costs.

19. Alternatively, if you would like to progress legislative change to make Cook Islands QFT travellers exempt from MIQ charges, then MBIE will prepare a Cabinet paper seeking agreement to amend the Regulations.

Annexes

Annex 1: Persons exempt from MIQ charges under the Regulations

Annex 1 – Persons exempt from MIQ charges under the Regulations

In addition to the persons specified in [section 32E\(2\)\(a\) to \(e\)](#) of the Act (diplomats), the following persons are exempt from the charges:

- (a)** a fellow resident of an excepted person who is a family member of that excepted person, unless—
 - (i)** the fellow resident is a person described in [regulation 6\(2\)\(d\)](#); or
 - (ii)** the excepted person is only an excepted person because they are under 3 years of age:
- (b)** a person who has entered New Zealand after, or as part of, a medical air transfer:
- (c)** a person who has travelled to New Zealand to receive medical treatment under the New Zealand Medical Treatment Scheme administered by the Ministry of Foreign Affairs and Trade:
- (d)** a person who has returned to New Zealand after travelling for medical treatment under the High Cost Treatment Pool scheme administered by the Ministry of Health:
- (e)** a New Zealand citizen who is ordinarily resident in the Cook Islands, Niue, or Tokelau and who has entered New Zealand for medical treatment:
- (f)** a New Zealand citizen who is ordinarily resident in the Cook Islands, Niue, or Tokelau and who—
 - (i)** has travelled to New Zealand from another country for the purpose of returning to the Cook Islands, Niue, or Tokelau; and
 - (ii)** is visiting New Zealand for less than 90 days; and
 - (iii)** is returning to the Cook Islands, Niue, or Tokelau (as the case may be) for 90 days or more, or, within 90 days of that return, is travelling outside the Cook Islands, Niue, or Tokelau (as the case may be) only as follows:
 - (A)** travel directly from the Cook Islands, Niue, or Tokelau (as the case may be) to a quarantine-free travel zone; and
 - (B)** return directly to the Cook Islands, Niue, or Tokelau (as the case may be) from a quarantine-free travel zone:
- (g)** a caregiver who has elected to enter an MIQF to care for an excepted person:
- (h)** a person who has entered an MIQF after being rescued, or having performed a rescue, at sea:
- (i)** a person who has entered New Zealand for the purpose of attending the sentencing of the person convicted of carrying out the attacks on Christchurch mosques on 15 March 2019:
- (j)** a claimant, refugee, or protected person who is entering New Zealand for the first time as a claimant, refugee, or protected person:
- (k)** a person who is applying for a visa under immigration instructions relating to victims of family violence and who is entering New Zealand under that type of visa for the first time:
- (l)** a person who is entering New Zealand for the first time since becoming a returning offender (as defined in [section 7](#) of the Returning Offenders (Management and Information) Act 2015):
- (m)** a person who is entering New Zealand after being deported from Australia for the first time:
- (n)** a person described in [regulation 6\(2\)\(b\)\(i\) or \(ii\)](#) who—
 - (i)** within 90 days of arriving in New Zealand, travels outside New Zealand only as follows:
 - (A)** travel directly from New Zealand to a quarantine-free travel zone; and
 - (B)** return directly to New Zealand from a quarantine-free travel zone; and
 - (ii)** is in New Zealand on the 90th day (of their first arrival).