



BRIEFING

MIQ fees review – proposed minor and technical changes

Date:	14 June 2021	Priority:	Medium
Security classification:		Tracking number:	2021-3765

Action sought		
	Action sought	Deadline
Hon Chris Hipkins Minister for COVID-19 Response	Indicate your preferred options for proposed minor and technical changes to the MIQ fees settings.	22 June 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	Policy Manager, System and Strategy, MIQ			
	Principal Policy Advisor, System and Strategy, MIQ			

The following departments/agencies have been consulted
Te Puni Kōkiri, Ministry for Primary Industries, Ministry for Pacific Peoples, Ministry of Foreign Affairs and Trade, Ministry of Transport, Te Arawhiti, Ministry of Health, Ministry of Justice, The Treasury, New Zealand Police.

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 Withdrawn |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

MIQ fees review – proposed minor and technical changes

Date:	14 June 2021	Priority:	Medium
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Purpose

To seek your direction on proposed minor and technical changes to the Managed Isolation and Quarantine (MIQ) fees settings.

Executive Summary

We have been undertaking a review of the MIQ fees system to ensure the settings remain fit for purpose and align with government objectives.

In our May 2021 advice [briefing 2021-3261 refers], we provided you with advice on potential changes to who is liable, the fee level, how the fees are structured, and terms of payment.

In this next phase of the fees review we have examined the exemptions and waivers settings, and identified opportunities to improve the operation, equity and durability of the fees regime.

In consultation with relevant agencies, we have identified a number of changes that could be made improve the consistency of the list of groups exempted from fees in the COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Regulations 2020 (the Regulations). The changes proposed are:

- amending the fees exemption for family members sharing a room with a person not liable for fees to expand the definition of family, and make the exemption applicable to family travelling together (rather than just those sharing a room);
- amending the fees exemption for caregivers so that all caregivers entering MIQ are exempt from fees, regardless of whether the person they are entering to care for is liable or not;
- amending the fees exemption for deportees so that all people who are entering New Zealand after being deported for the first time are exempt from fees, rather than just those from Australia;
- introducing a new fees exemption for people who have been extradited to New Zealand;
- wording tweaks and terminology updates to support the operation of existing exemptions.

It will also be necessary to introduce a new fees exemption so that New Zealand citizens and residents who last departed New Zealand before 11 August 2020 and who are visiting for more than 180 days are added to the list of groups exempt from fees. This is to ensure that current liability settings for New Zealanders are maintained when the liability starting point for fees is reversed as part of the COVID-19 Public Health Response Amendment Bill changes.

This paper recommends that the Regulations are amended to introduce a new Ministerial power for you to exempt classes of people from fees in certain circumstances, based on a prescribed criteria. You have already agreed to amend the Regulations to enable MBIE to charge families (of a specified limit) on the basis of their Managed Isolation Allocation System (MIAS) travel group, rather than room configuration. This paper provides you with advice on the scope of the change and recommends that a 'family travel group' consists of up to 12 people (the maximum number of people who can book as a group in MIAS).

We will provide you with a draft Cabinet paper with your agreed recommendations (from this paper and from our previous advice on the fees regime) by mid-July.

Recommended action

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

- a **Note** that MBIE has undertaken a review of the Managed Isolation and Quarantine (MIQ) fees system to ensure the settings remain fit for purpose and align with government objectives;

Noted

Amendments to the list of groups exempted from MIQ fees in the COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Regulations 2020 (the Regulations)

- b **Agree** to amend the fees exemption for family members sharing a room with a person not liable for fees, by:

- amending the definition of 'family member' to be "any person who shares a legal or biological relationship or who is whānau or another culturally recognised family group";

Agree / disagree / discuss

- making the exemption applicable to families travelling together (as registered in MIAS), rather than just those sharing a room;

Agree / disagree / discuss

- c **Agree** to amend the fees exemption for caregivers so that all caregivers entering MIQ are exempt from fees, regardless of whether the person they are entering to care for is liable or not;

Agree / disagree / discuss

- d **Agree** to amend the fees exemption for deportees so that it applies to all persons who are entering New Zealand after being deported for the first time, rather than just those from Australia;

Agree / disagree / discuss

- e **Agree** to amend the fees exemption for people entering New Zealand after, or as part of, a medical air transfer, so that it also covers people who have entered as part of medical referrals and medical evacuations;

Agree / disagree / discuss

- f **Agree** to amend the fees exemption for people who have travelled to New Zealand to receive medical treatment under the New Zealand Medical Treatment Scheme so that it also covers those who are receiving treatment under the Samoan Health Partnership;

Agree / disagree / discuss

- g **Agree** to amend the fees exemption for New Zealand citizens returning to the Cook Islands, Niue, or Tokelau for more than 180 days, to ensure that it correctly mirrors the liability settings of New Zealand citizens returning to New Zealand;

Agree / disagree / discuss

- h **Agree** to remove the fees exemption for people who entered New Zealand for the purpose of attending the Christchurch mosque sentencing, as this event has taken place;

Agree / disagree / discuss

i **Agree** to introduce a new fees exemption for people who have been extradited to New Zealand;

Agree / disagree / discuss

j **Note** that in order to ensure that current liability settings for New Zealanders are maintained when the liability starting point for fees is reversed as part of the COVID-19 Public Health Response Amendment Bill changes; the Regulations will need to be amended so that New Zealand citizens and residents who last departed New Zealand before 11 August 2020 and who are visiting for more than 180 days are added to the list of groups exempt from fees;

Noted

New Ministerial power to exempt classes of people from fees

k **Agree** to amend the Regulations to introduce a power for you to exempt *classes of people* from MIQ charges in certain circumstances;

Agree / disagree / discuss

l **Agree** that the Regulations will prescribe criteria for exercising this power to ensure a consistent and equitable approach to exemptions;

Agree / disagree / discuss

m **Note** that we will provide you with further advice on the criteria, but our initial thinking is that exemptions could apply to classes of people who are entering New Zealand:

- for national emergency reasons, or
- in response to a nationally significant event;

Noted

Minor and technical changes to improve the operation, equity and durability of the fees system

n **Agree** to amend the Regulations to define the 'first person in a room' as the adult who would be charged the least, for consistency and the avoidance of doubt;

Agree / disagree / discuss

o **Agree** to amend the Regulations to remove the requirement to send an invoice even when a fee waiver has been granted;

Agree / disagree / discuss

Further advice on previous decision to charge families on the basis of travel group

p **Note** that you have previously agreed to amend the Regulations to enable MBIE to charge families (of a specified limit) on the basis of their Managed Isolation Allocation System (MIAS) travel group, rather than room configuration [briefing 2021-3261 refers];

Noted

q **Agree** that a 'family travel group' be able to consist of up to 12 people (the maximum number of people who can book as a group in MIAS);

Agree / disagree / discuss

r **Note** that we will prepare a Cabinet paper on the basis of policy decisions you have agreed to in this paper and in our previous fees advice [briefing 2021-3261 refers];

Noted

s **Agree** that this briefing will not be proactively released at this time as decisions are still to be made by Cabinet.

Agree, disagree



Kara Isaac
General Manager
MIQ Policy, MBIE

14 / 6 / 21



Hon Chris Hipkins
Minister for COVID-19 Response

22 / 6 / 2021

Background

1. As you are aware, we have been undertaking a review of the Managed Isolation and Quarantine (MIQ) fees system to ensure that the settings remain fit for purpose and align with government objectives.
2. We evaluated the performance of the fees system against its two key objectives:
 - Primary objective: recovering some of the costs of MIQ services to make the provision of MIQ services more financially sustainable;
 - Secondary objective: reducing demand for MIQ relating to short-term travel.
3. We considered that the system was functioning relatively well, but that the settings could be re-examined to simplify the system and recover more costs. We identified a new third objective of having a simple and streamlined cost recovery system.
4. In response to our initial advice, you agreed that the COVID-19 Public Health Response Act 2020 (the Act) be amended so that the default starting point is that everyone is liable for fees, unless they are specifically made exempt [briefing 2021-2360 refers]. Currently the fees settings are designed narrowly so that groups must be specified in the COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Regulations 2020 (the Regulations) for charges to apply.
5. This change was approved by Cabinet in May 2021 as part of a suite of recommendations on the COVID-19 Public Health Response Amendment Bill [SWC-21-MIN-0067 refers]. The Amendment Bill is expected to be enacted in late September/early October 2021.
6. On 5 May 2021 [briefing 2021-3261 refers] we provided you with further advice about other potential changes to the key settings (namely who is liable, the fee level, how the fees are structured and terms of payment).
7. You agreed to progress the following changes:
 - reduce the payment period for MIQ invoices from 90 to 30 days;
 - enable MBIE to issue invoices any time after a person enters MIQ (under current settings invoices can only be issued on or after the date a person leaves MIQ);
 - enable MBIE to charge fees to families on the basis of their travel group as registered in the Managed Isolation Allocation System (MIAS), irrespective of how many rooms they occupy.
8. This briefing recommends some further minor and technical changes to improve the operation, equity and durability of the fees regime. It also advises you of the process and timeline for implementing decisions you have previously agreed to. We are seeking your agreement to prepare Cabinet proposals on your agreed changes to the Regulations.

Fees exemptions

Exemptions for New Zealanders

9. Under current settings, New Zealanders¹ who left New Zealand before 11 August 2020 and who are visiting for more than 180 days are not liable for MIQ fees. You have indicated [briefing 2021-3261 refers] that you do not wish to make changes to the liability settings for New Zealanders at this point in time.

¹ Throughout this briefing, we use 'New Zealanders' to refer to New Zealand citizens, New Zealand residence class visa holders, and Australian citizens and permanent residents who are ordinarily resident in New Zealand.

10. In order to ensure that current liability settings for New Zealanders are retained when the liability starting point in the Act is reversed, this category of New Zealanders will need to be included in the list of exempted groups in the Regulations. The full list of groups currently exempted under the Regulations is provided in **Annex 1**.

Exemptions for other groups

11. Following your agreement to change the legislative settings so that everyone is liable, unless exempt, we revisited the categorisation of the current exemptions and considered whether they continue to apply and if there were other groups that should be included.
12. An underpinning principle of the exemptions regime is that people who have had no practical choice but to come to New Zealand should not be liable for fees. The exemptions were designed to provide upfront clarity and certainty about their fee liability to these groups, as well as to family members of people who are not liable for charges through other aspects of the fees regime (i.e. family of New Zealanders returning for more than 180 days, or family of an adult who has been approved for a fee waiver on the grounds of undue financial hardship or other special circumstances).
13. The exemptions, like other areas of the fees regime, were developed at pace. MBIE consulted with a wide range of agencies to develop the existing exemptions list. Officials considered humanitarian needs and New Zealand's international obligations.
14. We have reassessed the list of currently exempt groups against the principles described in paragraph 12. In line with the wider fees review, we have also looked at where the exemptions could be streamlined or simplified. We consider that the exemptions remain largely fit for purpose and are broadly working well, but in consultation with relevant agencies have identified a number of changes that could be made to tidy and improve the system.

Proposed changes to current exemptions

Amending the exemption for family members sharing a room with a person not liable for fees

15. Under clause 8(a) of the Regulations, family members who are sharing a room with a person exempt from or not liable for fees are also exempt from fees. However, the definition of family members in the Regulations ("a spouse, partner, guardian, or child of that person") is arguably not responsive to or reflective of common New Zealand familial and financial structures of whānau.
16. We recommend expanding the definition of family member to cover extended families in multiple cultural contexts. We also recommend making the family member exemption applicable to family travelling together (as booked in MIAS, rather than just those sharing a room).
17. These changes will make the fees regime more culturally responsive. They will also, alongside the already agreed change to charging families by travel group rather than room configuration (para 56 refers), lessen the financial impact of MIQ on larger families.
18. There are many definitions of family member in the New Zealand statute books. We consider the definition under the Oranga Tamariki Act 1989 the most suitable basis for our definition², as it takes into account important familial ties and reflects the flexible nature of families.

² The Oranga Tamariki Act defines family group as a group where in which there is at least one adult member—

- (a) with whom the child or young person has a biological or legal relationship; or
- (b) to whom the child or young person has a significant psychological attachment; or
- (c) that is the child's or young person's whānau or other culturally recognised family group.

19. Consequently we recommend that the Regulations be amended to define 'family member' as 'any person who shares a legal or biological relationship or who is whānau or another culturally recognised family group". We consulted with Te Puni Kokiri on the determination of this definition.
20. For terms such as such as 'whānau' where the definition is nuanced and may benefit from additional explanation, officials will draft and consult on practical guidance.
21. To avoid introducing additional complexity and information sharing requirements into the fees regime, we propose that the expanded definition of family is implemented on a high trust basis. That is we would not systematically attempt to verify every claimed familial relationship (this is consistent with how we approach the current narrow definition of family – we do not, for example, verify whether people sharing a room are husband and wife or father and son).
22. If there is reason to believe that a group may not be family, MIQ may:
 - ask for evidence of their being whānau or having a biological or legal connection
 - ask returnees to make a statutory declaration that they share the relationship they are asserting.

Amending the exemption for caregivers

23. Many people travel to New Zealand and enter MIQ with significant support needs. Some returnees have mental health and physical challenges that require a high level of support. Others are minors.
24. Although MIQ offers a range of wraparound supports, bringing an outside caregiver into MIQ is often preferable, both for the returnee (in terms of choice and control) and operationally (so that MIQ's wraparound services can be freed up to support others in the cohort).
25. Currently where a returnee is not liable for MIQ fees, a caregiver who has elected to enter MIQ to care for them is also exempt (regulation 8(g)). However, if a returnee *is liable* for MIQ fees then the caregiver that joins them in MIQ is also liable.
26. We recommend that the Regulations be amended to exempt all caregivers entering MIQ from paying fees, regardless of whether the person they are caring for is liable or not. This will reduce a key financial barrier to returnees receiving support and care of their choosing. It

Legal professional privilege

27. We are not recommending that the person needing additional support is also exempted. This is a risk of making this change, because as per paragraph 15 above, family members sharing a room with an exempt person are also exempt from fees. The caregiver exemption will include a 'stop gap' so that the exemption does not extend on to any other person. We will work with the Parliamentary Counsel Office to ensure that the drafting of the associated amendment to the Regulations does not inadvertently result in that outcome.

Extending the exemption for Australian deportees to deportees from all countries

28. Under regulation 8(m), a person who is entering New Zealand after being deported from Australia for the first time, is exempt from fees. Although the vast majority (97%) of deportees come from Australia, we consider that there is not a strong rationale for why we would exempt deportees from Australia over deportees from any other country.
29. We recommend extending this exemption to all persons who are entering New Zealand after being deported for the first time, for the purpose of simplicity, consistency and fairness.

30. We do not, however, expect that this change will materially impact on costs recovered. Actual numbers of deportees from countries other than Australia are minimal (only 69 between 1 January 2015 and 26 October 2020). Additionally, under the current settings only New Zealanders who departed after 11 August 2020 or are visiting New Zealand for less than 180 days would be liable for fees. In practice, we expect there would very few deportees coming through who left New Zealand after this date or who are staying for less than 180 days. Most deportees would therefore not be liable for fees in any case.

Other minor and technical changes to existing exemptions

31. In addition to the three substantive changes set out above, we have identified four other minor amendments to the existing exemptions following consultation with agencies, particularly the Ministry of Foreign Affairs and Trade (MFAT). These changes, summarised in the table below, are largely wording tweaks or terminology updates to support the operation of existing policy settings.

Regulation	Current exemption	Recommend change
8(b)	A person who has entered New Zealand after, or as part of, a medical air transfer.	For the avoidance of doubt, extend the exemption to also cover people who have entered New Zealand as part of medical referrals and medical evacuations.
8(c)	A person who has travelled to New Zealand to receive medical treatment under the New Zealand Medical Treatment Scheme administered by MFAT.	To ensure the exemption can operate as intended, update to include the Samoan Health Partnership (also administered by MFAT).
8(f)	A New Zealand citizen who is ordinarily resident in the Cook Islands, Niue, or Tokelau and who <ol style="list-style-type: none"> 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: <ol style="list-style-type: none"> 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. 	To ensure the exemption works as intended (mirror the liability settings of New Zealand citizens returning to New Zealand), the following changes are needed: <ul style="list-style-type: none"> • remove the requirement for a person to be 'ordinarily resident', as due to the passage of time, no one who left the Cook Islands, Niue, Tokelau or New Zealand before 11 August 2020 would currently be able to meet that test. • add a requirement that the person left the Cook Islands, Niue, Tokelau or New Zealand (as the case may be) before 11 August 2020 • amend regulation 8(f)(ii) to read 180 (rather than 90 days) –this change was missed in the last set of Regulation amendments • amend 8(f)(iii) to require the person to return to the Cook Islands, Niue, or Tokelau for the balance of 180 day minus the time they are visiting New Zealand for (8(f)(ii)).
8(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.	Event has taken place - remove.

Proposed new exemption - extradited persons

32. Persons who have been extradited to New Zealand are not currently exempt from MIQ fees under the Regulations. However, we consider that, similarly to deportees, they have had no practical choice but to come to New Zealand and so should not be liable for fees.
33. We recommend that the Regulations are amended to create a new exemption for extradited persons. Extradited persons have not necessarily been convicted of committing an offence in New Zealand and have a right to be presumed to be innocent until proven guilty.
34. We expect that the impact of this change on cost recovery will not be material, as actual numbers of extradited persons entering MIQ are very low, due to travel restrictions in the COVID-19 environment. Only two people have been extradited to New Zealand from countries outside of Australia (and would thus need to go through MIQ) since the onset of the pandemic. The change will however provide upfront certainty, as well as consistency and fairness with how groups are treated in terms of MIQ fees exemptions.
35. The full set of proposed changes to the exemption settings, and the rationale for each, is summarised in a table in **Annex 2**.

Proposed Ministerial fees exemption power

36. Currently the only non-New Zealanders who are not required to pay MIQ fees are those specifically exempt in the Act (diplomats) or regulation 8 of the Regulations (see **Annex 1**), or those who meet a specified criteria and are granted a full or partial fee waiver on the grounds of undue financial hardship or other special circumstances.
37. There is no discretion or flexibility for the responsible Minister to exempt an individual or class from MIQ fees beyond the categories already in the Act and the Regulations.
38. Section 32F(2) of the Act provides that regulations relating to cost recovery may authorise the relevant Minister or Chief Executive of MBIE to exempt, waive, or refund the whole or part of any prescribed charge, or defer the time for payment, in any particular case or any class or classes of cases (and may or may not prescribe criteria to be applied in doing so).
39. We recommend that the Regulations are amended to introduce a power for you to exempt classes of people from charges in certain circumstances.

Situations where a Ministerial fees exemption power could be useful

40. Amending the Regulations to enable this power would bring additional flexibility to the fees regime. It would allow the system to respond to unforeseen humanitarian circumstances where charging MIQ fees may be unjust. It could also facilitate a more efficient management of similar types of waiver applications without needing to amend the Regulations. For example, it may be more efficient or beneficial to exercise an exemption power if:
 - a situation similar to the Christchurch mosque attacks or Whakaari White Island eruption were to occur again, and we wanted to provide certainty to overseas travellers entering for sentencings or court hearings or for other unexpected reasons;
 - we require people to enter New Zealand as part of an emergency response (and they are still required to go through some form of MIQ);
 - if people have to stay in MIQ for longer because they were accidentally exposed to COVID-19 through no control of their own (e.g. as happened at the Grand Mercure)³.

³ Note that the Regulations only enable MBIE to recover MIQ charges for a 14 days stay in MIQ. If a person is required to stay in MIQ for a longer period (for example, if they return a positive COVID-19 test and go into quarantine), there is no ability to charge for more than the standard fees as set out in the Regulations.

41. People in these sorts of situations would likely be eligible for a fees waiver on special circumstances grounds, but giving the responsible Minister the power to exempt from fees would provide upfront clarity for travellers and take the onus off them to apply to the Chief Executive of MBIE for a waiver.

Proposed scope of fees exemption power

42. Whilst the Act provides for regulations to be made that empower either the Minister or the Chief Executive of MBIE to exempt people from fees, we recommend this power sits with you as it requires a level of discretion more appropriate for a Minister.
43. If you agree, we recommend that the Ministerial exemption power relates to classes of people and that the Regulations prescribe the criteria for exercising this power. Officials will provide advice to support Ministerial decision-making in the usual way.
44. We do not recommend that the exemption power is available in relation to individuals as well as it would create uncertainty about who is eligible and would therefore go against the objective of simplifying and streamlining the fees system. It may also result in increased applications for exemptions. The current fee waiver provisions would still be available for most individuals to apply for.
45. We recommend that some criteria should apply to which classes would be eligible for a Ministerial fees exemption. Our initial advice is that it could apply to classes of people who are entering New Zealand:
- for national emergency reasons, or
 - in response to a nationally significant event.
46. If you agree to this recommendation, we will provide you with further advice relating to the criteria as part of any Cabinet proposals to give effect to your decisions in this briefing.

Other minor and technical changes

47. In addition to the changes recommended above, we have identified two other areas where minor and technical amendments would improve the implementation of the fees regime.

Clarifying who is the 'first person' in a room for the purpose of fees

48. Under the Regulations, there is a higher charge for the 'first person' in a room (either \$2,696 + GST or \$4,800 + GST, depending on visa/citizenship status). Additional adults and children sharing the same room are charged at a reduced rate.
49. Other than stating that the 'first person' must be an adult, or if there is no adult, a child; the Regulations are silent on how the 'first person' is determined if there is more than one adult in a room. The identity of the first person for invoicing purposes has implications when there are people of different visa/citizenship types travelling together.
50. Take, for example, a liable New Zealand citizen travelling with a partner who is a critical worker. Depending on who is chosen as the 'first person', the combined invoice for the room would vary from \$5,296 + GST if the New Zealander is chosen as the 'first person' to \$5,626 + GST if the critical worker is chosen as the first person (i.e. the difference would be \$330 + GST). Any future increases to the fee levels for critical workers could make this difference more material.
51. For consistency and for the avoidance of any doubt, we recommend amending the Regulations to specifically define the 'first person' when people with different liabilities are sharing a room.

52. We recommend that the 'first person' be defined as the adult who would be charged the least. This would provide the greatest level of certainty to these travellers, as well as consistency and fairness between groups. The principle of certainty is favoured by the courts, and would likely be taken into account in the event of a legal challenge.

Removing the legal requirement to send invoices even when a fee waiver has been granted

53.	Legal professional privilege
54.	
55.	

Implementing previously agreed changes to how fees are applied

Charging by family travel group rather than room configuration

56. Currently MIQ fees are structured on the basis of one person occupying a room, with additional, lower fees, charged to persons sharing the same room. The current fees are set out in the table below.

	Lower fee in Regulations	Higher fee in Regulations
First/only person in a room	\$2,696 + GST	\$4,800 + GST
Additional adult in the same room	\$826 + GST	\$2,400 + GST
Additional child in the same room (3-17 yrs)	\$413 + GST	\$1,400 + GST
Additional child in the same room (under 3 yrs)	No charge	No charge

57. In our May advice [briefing 2021-3261 refers] we provided you with options relating to how the fees are structured that would improve transparency and equity. You agreed to continue to base charges on room allocations, but with the added ability for MBIE to charge fees to *families* on the basis of their travel group as registered in MIAS, irrespective of how many rooms they occupy.
58. Under this approach there would still be first adult / additional adult / child charges, but if a family (of a specified limit) was spread over more than one room, they would be charged on the basis of their travel group so that only one 'first adult' fee was incurred. The remainder of the adults in the family group would be charged at the 'additional adult' rate and any children would be charged at the child rate, even if they are the first person in a room.
59. This change will help to address an equity issue with the current charging structure, which penalises larger families and families with high health needs (e.g. when a family of four books a single room but only two double rooms can accommodate them at the MIF, or when a family is housed over several rooms for health and safety reasons, the family is charged more than what they would have likely been anticipating).

60. To give effect to your decision, the Regulations will need to be amended to charge fees to families on the basis of their MIAS travel group. Other groups (e.g. returning sports teams) will continue to be liable for fees on the basis of room configuration. *Size of the family travel group*
61. We recommend that a 'family travel group' be able to consist of up to 12 people. This is the maximum number of people who can be booked in MIAS as a family group at any one time.
62. Although 12 would be the upper limit, very few groups entering MIQ actually consist of this many people. As set out in the table below, most family groups who would be impacted by this change (i.e. potentially spread over multiple rooms) consist of four or five people.

Number of travellers in MIAS groups – 5 April 2021 to 4 June 2021

Group size (people)	1	2	3	4	5	6	7	8	9	10	11	12
Count	11983	3252	905	563	156	36	5	11	3	1	2	8

63. Additionally, there are business rules in MIAS and subsequent verification processes that prevent groups from booking more rooms than they reasonable require. For example, a group of four adults travelling together under one MIAS booking would not be able to book four separate rooms, so the risk is low that charging on the basis of family group will incentivise people to book more rooms than they require.

Financial impact of the proposed change

64. The table below show the impact of the proposed change on various family groupings. All costings are based on the lower fee bracket for New Zealanders.

Family group size	Total MIQ charges under current Regulations	Total MIQ charges under proposed change	Difference
<i>4 people</i> Two adults, two children (>3yrs) (spread over <u>two</u> rooms)	\$6,218 + GST	\$4,348 + GST	\$1,870
<i>5 people</i> Two adults, three children (>3 yrs) (spread over <u>two</u> rooms)	\$6,631 + GST	\$4,761 + GST	\$1,870
<i>6 people</i> Three adults, three children (>3 yrs) (spread over three rooms)	\$9,327 + GST	\$5,587 + GST	\$3,740
<i>12 people</i> Four adults, six children (>3 yrs), two children (<3 years) (spread over four rooms)	\$13,262 + GST	\$7,652 + GST	\$5,610

65. As outlined in the above table, charging on the basis of family travel group would mean (for example) that a New Zealand family of four (two adults, two children over three) who were split into two rooms would be liable for a combined fee of \$4,348 + GST rather than \$6,218 + GST under current settings.
66. As such, the proposed change would result in a reduction in MIQ costs recovered, but we view that this reduction would be outweighed by the equity benefits.

67. It is also important to note that a number of families will be returning to New Zealand for a funeral / tangihana or for other special circumstances and thus may receive a full or partial fees waiver in any case.

Implementation

68. We recommend this new charging approach apply to all family groups (as registered in MIAS). We view this as preferable to the alternative option, which would be to create a new fee waiver category for families. The latter would put the onus on families to complete the waiver application process, and would not provide the upfront certainty of charges for families that we are hoping to achieve with this change.
69. As discussed in paragraph 21, we propose to implement this change on a high trust basis to avoid introducing additional complexity and information sharing requirements into the fees regime. We will undertake checks however if there is a reason to believe that a group may be trying to use the family charging discretion in bad faith.

Timing of the issuing and payment of MIQ invoices

70. Following our May advice [briefing 2021-3261 refers] you agreed to:
- reduce the payment period for MIQ invoices from 90 to 30 days
 - enable MBIE to issue invoices any time after a person enters MIQ (under current settings invoices can only be issued on or after the date a person leaves MIQ)
71. As advised in the 4 June 2021 weekly report and an Aide Memoire of 8 June 2021 [2021-4002 refers], the new 30 day payment period will be implemented from 20 August 2021.
72. Enabling MBIE to issue invoices any time after a person enters MIQ (where possible and appropriate) will require an amendment to the Regulations. A proposed timeline for the Regulation amendment process is set out in the section below.

Next steps

73. Following your feedback on this paper, we will draft a Cabinet paper seeking agreement to the policy changes you have agreed to in this paper and previously.
74. An indicative timeline for Cabinet decisions is set out below.

Action	Date
Draft Cabinet policy paper to Minister for consultation	16 July 2021
Ministerial consultation completed	26 July 2021
Cabinet policy paper considered by SWC	4 August 2021
Cabinet policy paper considered by Cabinet	9 August 2021
Drafting instructions sent to PCO	10 August 2021
Draft LEG paper and Regulations to Minister for consultation	24 August 2021
Ministerial consultation on LEG paper completed	30 August 2021
LEG paper considered by LEG	9 September 2021
LEG paper considered by Cabinet and Executive Council	13 September 2021
Gazette Regulations	16 September 2021
Amended Regulations come into force	28 days later

75. The proposed timing ensures that will mean that the amended Regulations can come into force at the same or similar time to the COVID-19 Amendment Bill (see paragraph 5 above).
76. Pending your direction, we will provide you with a draft Cabinet paper by 16 July 2021 for your consideration and ministerial consultation.

Annexes

Annex 1: Persons exempt from charges under the current Regulations

Annex 2: Summary of proposed changes to the fees exemption settings

Annex one: persons exempt from MIQ charges under current Regulations

Regulation 8 of the COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Regulations 2020 provides that the following persons are exempt from MIQ 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; andis in New Zealand on the 90th day (of their first arrival).

Annex two: Summary of proposed changes to the fees exemption settings

Regulation	Current exemption	Recommend change	Rationale
8(a)	A fellow resident of an excepted person who is a family member [spouse, partner, guardian, or child] of that excepted person	Extend the definition of family member to cover “any person who shares a legal or biological relationship or who is whānau or other culturally recognised family group”. Extend the exemption to cover family travelling together (as registered in MIAS), rather than just those sharing a room.	Will make the definition of family more responsive to common New Zealand configurations of family and whānau, and lessen the financial impact of MIQ on larger families.
8(b)	A person who has entered New Zealand after, or as part of, a medical air transfer	Extend the definition to “Medical referrals and medical evacuations (MEDIVACS)”.	A technical amendment to ensure the definition covers all persons entering New Zealand on a Medical Air Transfer.
8(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:	Rephrase the definition to “New Zealand Medical Treatment Scheme and the Samoan Health Partnership administered by the Ministry of Foreign Affairs and Trade”.	The current definition is limited and incorrect. Update to ensure the MFAT schemes can operate.
8(f)	A New Zealand citizen who is ordinarily resident in the Cook Islands, Niue, or Tokelau and who iv. has travelled to New Zealand from another country for the purpose of returning to the Cook Islands, Niue, or Tokelau; and v. is visiting New Zealand for less than 90 days; and vi. 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	To ensure the exemption works as intended (mirrors the liability settings of New Zealand citizens returning to New Zealand), the following changes are needed: <ul style="list-style-type: none"> remove the requirement for a person to be ‘ordinarily resident’ add a requirement that the person left the Cook Islands, Niue, Tokelau or New Zealand (as the case may be) before 11 August 2020 amend regulation 8(f)(ii) to read 180 (rather than 90 days) –this change was missed in the last set of Regulation amendments Change 8(f)(iii) to require the person to return to the Cook Islands, Niue, or Tokelau for the balance of 180 day minus the time they are visiting New Zealand for (8(f)(ii)). 	New Zealand citizens and residents are not liable for fees if they departed New Zealand before 11 August 2020 and are visiting for more than 180 days. Exemption 8(f) of the Regulations aims to meet New Zealand's obligations to realm countries by carrying this fees exemption over to New Zealand citizens who live in the Cook Islands, Niue or Tokelau. It reflects the fact that direct flights to these realm countries are almost always through New Zealand (in the context of COVID-19). However the current wording of the exemption means that exemption is unlikely to work as intended. The exemption relates to New Zealand citizens who are <u>ordinarily resident</u> in the Cook Islands, Niue, or Tokelau. ‘Ordinarily resident in the Cook Islands, Niue or Tokelau’ is not defined in the Regulations. However the Regulations define ‘ordinarily resident in New Zealand’ as “present in New Zealand for 183 days or more in total in the 12 proceeding months”. Based on that definition, due to the passage of time, no one who left the Cook Islands, Niue or Tokelau or New Zealand before 11 August 2020 would currently be able to meet that test.
8(g)	A caregiver who has elected to enter MIQ to care for an excepted person:	Make the caregiver exempt from MIQ in their own right, regardless of whether the person they have entered MIQ to care for is liable. This would not extend to the recipient of care.	This change will reduce the barrier for a caregiver to enter an MIQF and provided support in situations where this is appropriate. Legal professional privilege
8(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	Remove.	The person convicted of carrying out the attacks on Christchurch mosques on 15 March 2019 has been sentenced. This exemption is no longer required.
8(m)	A person who is entering New Zealand after being deported from Australia for the first time	Extend the exemption to all persons who are deported.	Under the current settings only Deportees who have committed a visa violation are currently liable. If a deportee left New Zealand before 11 August 2020, and didn't leave NZ for 90 days (180 days from 1 June 2021) they would be exempt. We expect there would very few deportees coming through now that left after 11 August 2020. Therefore extending the definition will provide greater simplicity.
NEW	Extradited persons are not exempt under the MIQ fees regulations.	Provide extradited persons a fee exemption.	Extradited persons have not necessarily been convicted of offence in New Zealand and have a right to be presumed to be innocent until proven guilty. Such persons are brought to New Zealand without having made an active choice so in line with the principles should be exempt.