



BRIEFING

QFT suspension with Australia – approach to MIQ fees

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|---------------------------------|--------------|-------------------------|----------------------|
| Date: | 23 July 2021 | Priority: | Urgent |
| Security classification: | | Tracking number: | 2122-0255 AUS-001 |

| Action sought | | |
|--|---|--------------|
| | Action sought | Deadline |
| Hon Chris Hipkins Minister for COVID-19 Response | Agree that travellers on red flights from Australia be eligible for a Ministerial MIQ fee waiver if they travelled to Australia after QFT came into effect on 18 April 2021. | 23 July 2021 |

| Contact for telephone discussion (if required) | | | |
|--|------------------------------------|----------------------------|-------------|
| Name | Position | Telephone | 1st contact |
| Brig Rose King | Joint Head of MIQ | Privacy of natural persons | |
| Privacy of natural persons | Associate Deputy Secretary, MIQ | | ✓ |
| | Acting General Manager, MIQ Policy | | |

The following departments/agencies have been consulted

The Department of the Prime Minister and Cabinet and the Ministry of Health.
This advice has also been informed by the all of Government response to the emerging situation in Australia, but has not been circulated for feedback.

- 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 Withdrawn |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



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Purpose

To seek your agreement on how to give effect to Cabinet’s decisions relating to MIQ fees for travellers returning from Australia on red flights following the suspension of quarantine-free travel (QFT) from 31 July 2021.

Recommended action

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

- a **Note** that Cabinet has agreed to pause QFT from 11:59 pm on Friday 23 July 2021 from all states and territories in Australia, and suspend the QFT from 11.59 pm on Friday 30 July 2021; *Noted*
- b **Note** that once the suspension comes into effect, any travellers on red flights will have to go into MIQ for 14 days. These travellers will be required to pay MIQ fees, with exceptions for certain travellers; *Noted*
- c **Agree** there is a general assumption that any eligible traveller intending to travel to New Zealand had made genuine and reasonable efforts to secure their flight in the relevant window of time; *Agree / Disagree*
- d **Agree** that travellers from Australia are eligible for a Ministerial MIQ fee waiver if they travelled to Australia after QFT was announced on 6 April 2021; *Agree / Disagree*
- e **Agree** to remove the term ‘temporary’ from the Ministerial waiver criteria, to ensure that the power can be used to provide fee waivers for the wider QFT suspension; *Agree / Disagree*
- f **Agree** that this briefing be proactively released with appropriate withholdings under the Official Information Act 1982. *Agree / Disagree*
- g **Note** we will provide you with further advice next week around options to manage the return of any QFT travellers in Australia who are unable to return using green flights, including those travellers still in New South Wales; *Noted*

Privacy of natural persons

Hon Chris Hipkins
Minister for COVID-19 Response

Acting General Manager, MIQ Policy
MIQ, MBIE

23 / 07 / 2021

Only those who cannot return

23 / 07 / 2021

All others should be treated the same as returnees from other parts of the world.

Background

Quarantine-free travel (QFT) with Australia

1. In response to concerns over the levels of community transmission of COVID-19 in Australia, on 22 July 2022, Cabinet [CAB-21-SUB-0288 refers]:
 - Agreed to pause quarantine-free travel (QFT) to New Zealand from 11:59 pm on Friday 23 July 2021 from all states and territories in Australia to prevent people who are not ordinarily resident in New Zealand from entering the country and to enable people ordinarily resident to return on managed return green flights;
 - Agreed to suspend QFT with the Commonwealth of Australia from 11.59 pm on Friday 30 July 2021;
 - Noted that if QFT is suspended as proposed, from 11:59 pm on Friday 30 July 2021 eligible people in Australia will only be able to return to New Zealand on red flights and go into Managed Isolation and Quarantine (MIQ) for 14 days;
 - Agreed that any travellers on red flights once the suspension comes into effect have to go into MIQ and will have to pay MIQ fees, with additional exceptions for:
 - eligible travellers that despite their best efforts and intentions could not secure a flight in that window; and
 - eligible travellers on managed return red flights from New South Wales (NSW) in accordance with the announcement on 9 July 2021.
2. This briefing seeks decisions related to the assessment of fee liability for those who return to New Zealand via red flights and enter into MIQ.

Cohort who will be impacted by decisions around MIQ fees

3. Data from INZ outlines that there are 21,589 passengers that travelled to Australia by air between 6 April 2021 and 20 July 2021 who have not returned to New Zealand, and who appear to be 'ordinarily resident' in New Zealand¹.
4. With over 20,000 NZ ordinary residents currently in Australia having travelled using the QFT zone, it is intended that the majority of these people will return to New Zealand before QFT with Australia is suspended. However, it is likely that there will remain a significant number who are unable to return in this time.
5. At this point we do not have any further information about the people who travelled to Australia using the QFT zone, but it is reasonable to expect that they will include people from a diverse range of backgrounds, who have travelled for a variety of reasons.
6. Their capacity to access green flights, and their ability to pay for MIQ fees, is likely to vary significantly.

Current fee arrangements for those entering into MIQ

7. The fees which can be charged, and the groups of people that these fees apply to, are set out in the *COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Regulations 2020* (the Regulations).

¹ Based on spending more than 184 days in New Zealand between 6 April 2020 and 20 July 2021.

New South Wales returnees

8. On 9 July 2021 you announced that people entering MIQ from New South Wales (NSW) will not be charged a fee for their stay, and communications to NSW returnees has been consistent with this announcement.
9. We have previously provided you with advice on how to give effect to the decision not to charge people returning from NSW fees for their stay in MIQ [Ref. NSW-006/MBIE-22122-0114].
10. Officials are in the process of progressing amendments to the Regulations to give effect to the Government's announcement that travellers on managed return flights from NSW will not be invoiced for their MIQ stay. On 26 July 2021, we will provide you with a draft Cabinet paper with proposals to amend the Regulations accordingly.

Proposal to give effect to Cabinet's decisions regarding the suspension of QFT with Australia

11. Cabinet's decision on 22 July 2021 [CAB-21-SUB-0288 refers] exempts travellers that *despite their best efforts and intentions* could not secure a green flight during the window that they were available.
12. It would not be feasible for MIQ to fairly and consistently assess a traveller's efforts or intentions to secure a return flight. We therefore recommend that there is a general assumption that any eligible traveller intending to travel to New Zealand had made genuine and reasonable efforts to secure their flight in the relevant window of time.
13. In order to ensure that the fees exception is applied consistently and fairly, we recommend that an objective date test is instead used to give effect to Cabinet's decision.
14. In line with the conditions for the NSW urgent and exceptional quota, we recommend that travellers from Australia are eligible for a Ministerial MIQ fee waiver if they travelled to Australia *after* QFT was announced on 6 April 2021. Travellers would not be eligible for a Ministerial waiver if they travelled to an Australian state or territory after a QFT pause or suspension came into effect with the respective state or territory.

Implications for the MIQ Charges Regulations

15. On 12 July 2021, Cabinet authorised you to take decisions on proposals to amend the Regulations to provide for a Ministerial waiver and refund power so that the amendment Regulations can be drafted as soon as possible [CAB-21-MIN-0284 refers].
16. On 15 July 2021, we provided you with advice [Ref. NSW-006/MBIE-22122-0114] about a potential criteria for the proposed Ministerial waiver and refund power. You agreed that the Ministerial power should be limited to circumstances:

"where changes in border settings impose a new and temporary requirement for returnees to enter MIQ and the Minister deems such a waiver or refund appropriate".
17. Government has announced that the suspension will initially last for 8 weeks, after which it will be reviewed.
18. Given that there is some uncertainty over how long the suspension of QFT with Australia will continue for, we are seeking your agreement to remove the term 'temporary' from the Ministerial waiver criteria, to ensure that the power can be used to provide fee waivers for the wider QFT suspension.

Next steps

19. If you agree to remove the term 'temporary' from the Ministerial power, we will work with the Parliamentary Counsel Office (PCO) to reflect this change in the amendment Regulations currently being drafted, and in the draft Cabinet paper due to you on 26 July 2021. We propose that proposals are taken to Cabinet and the Executive Council on 2 August 2021 and that the Ministerial power comes into effect on 3 August 2021.

Other advice will be provided to you about MIQ's response to the pause on QFT

20. The circumstances of QFT travellers in Australia is changing rapidly as States and Territories respond to the emergence of the delta variant and the movement of people across borders. Some jurisdictions have already gone into lockdown, and we can expect that the situation will continue to evolve.
21. Following the implementation of green return flights in the coming days, we will assess the impact and anticipated residual demand for MIQ from QFT travellers still in Australia.
22. We will provide you with further advice next week around options to manage the return of any QFT travellers in Australia who were unable to return using green flights, including those travellers still in New South Wales.