



BRIEFING

Amendments to the Isolation and Quarantine Order to allow early departure for recent arrivals from Samoa, Tokelau, Tonga and Vanuatu

Date:	1 November 2021	Priority:	Urgent
Security classification:		Tracking number:	2122-1579

Action sought		
	Action sought	Deadline
Hon Chris Hipkins Minister for COVID-19 Response	<p>Agree to allow people who entered MIQ from Samoa, Tonga, Tokelau or Vanuatu after 25 October to leave MIQ from 8 November provided they are not contacts of a positive case; are asymptomatic; and have tested negative for COVID-19 on their last routine test.</p> <p>Agree for officials to issue drafting instructions to amend the Isolation and Quarantine Order to give effect to this decision.</p> <p>Agree to forward this briefing to the Prime Minister, Minister of Justice, Minister of Health and any other Ministers you think fit.</p> <p>Agree for officials to communicate this decision as soon as possible to people undertaking MIQ so they and MIQ staff can plan for onwards travel arrangements.</p>	2 November 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, MIQ Policy		

The following departments/agencies have been consulted
Ministry of Health

Minister's office to complete:

Approved

Declined

Noted

Needs change

Seen

Overtaken by Events

See Minister's Notes

Withdrawn

Comments



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Purpose

To seek your agreement to allow people who have recently arrived in MIQ from Samoa, Tokelau, Tonga and Vanuatu to depart MIQ from 8 November when QFT commences provided they are not contacts of a positive case; are asymptomatic; and have tested negative for COVID-19 on their last routine test.

Recommended action

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

- a **Note** that a number of people have recently arrived or are scheduled to arrive from Samoa, Tonga, Tokelau and Vanuatu and will be partway through their 14 day stay in MIQ when the one-way QFT commences with those countries on 8 November.
- Noted*
- b **Note** that once one-way QFT commences with those countries, there will be no public health basis for requiring arrivals from these countries already undertaking MIQ to complete the full 14 days.
- Noted*
- c **Agree** to allow people who entered MIQ from Samoa, Tonga, Tokelau or Vanuatu after 25 October to leave MIQ from 8 November provided they are not contacts of a positive case; are asymptomatic; and have tested negative for COVID-19 on their last routine test.
- Agree / Disagree
- d **Agree** that officials issue drafting instructions to the Parliamentary Counsel Office to draft the required amendment to the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020 to give effect to the decision in recommendation c.
- Agree / Disagree
- e **Note** that you must consult with the Prime Minister, the Minister of Justice, the Minister of Health, and may consult with any other Ministers you think fit.
- Noted*
- f **Agree** to forward this briefing to the Prime Minister, Minister of Justice, Minister of Health and any other Ministers you think fit.
- Agree / Disagree
- g **Note** that the final Order will be provided to you on Friday 5 November and must be signed that day in order to come into effect at 11.59pm on 7 November.
- Noted*

h **Agree** for officials to communicate this decision as soon as possible to people undertaking MIQ so they and MIQ staff can plan for onwards travel arrangements.

Agree / Disagree

i **Note** that, as per the Ministerial decision paper on these QFT arrangements [HR20212], MIAS vouchers for travellers from these countries from 8 November who no longer require them will be cancelled in accordance with the voucher cancellation framework.

Noted

j **Note** that if one-way QFT arrangements are paused, that approach could be reviewed and MIQ would likely be able to accommodate small numbers that needed to travel but whose vouchers had been cancelled, depending on wider system pressures.

Noted

k **Agree** that this briefing be proactively released with appropriate withholdings under the Official Information Act 1982.

Agree / Disagree



Kara Isaac
General Manager, MIQ Policy
Managed Isolation and Quarantine, MBIE

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Hon Chris Hipkins
Minister for COVID-19 Response

3 / 11 / 2021

Background

1. On Wednesday 27 October, COVID-19 Ministers with Power to Act agreed to expand one-way quarantine-free travel (QFT) from 11.59pm on 7 November 2021 to all eligible travellers from Samoa, Tokelau, Tonga and Vanuatu [HR20212 refers]. This decision was announced on Thursday 28 October.
2. One-way QFT had been operating from Samoa, Tonga and Vanuatu only for RSE workers since 4 October. With the extension, eligible travellers will now include Tokelau and cover those people who have the right to reside permanently in New Zealand (including first time resident visa holders and Australians), and people covered by border exceptions.
3. A number of people have recently arrived or are scheduled to arrive from these countries and will be partway through their 14 day stay in MIQ when the one-way QFT commences. From 8 November there will no longer be public health justification for requiring these people to complete the full 14 day stay.
4. This briefing seeks your agreement to allow those people to depart MIQ from 8 November provided they are not contacts of a positive case; are asymptomatic; and have tested negative for COVID-19 on their last routine test.

Arrivals in MIQ from Samoa, Tonga, Vanuatu and Tokelau

5. The following numbers of people have arrived or are scheduled to arrive in MIQ from Vanuatu, Samoa, Tokelau and Tonga in the 13 days preceding 8 November:

Date	From	Number of people
Wednesday 27 October	Tonga	18 arrived
Thursday 28 October	Samoa	15 arrived
Wednesday 4 November	Samoa	24 scheduled
Friday 6 November	Samoa and Vanuatu	37 scheduled
Total		94

6. We anticipate that people with flights this week (61 people) are likely to reschedule to fly QFT after 7 November in light of last Thursday's announcement that QFT would commence on 8 November.
7. We note that this situation did not arise when the Trans-Tasman QFT began earlier in the year because the lead in time between announcement and commencement was longer than 14 days.

Public health advice

8. Once one-way QFT commences on 8 November, there will no longer be a public health basis for requiring arrivals from these countries in MIQ to complete the full 14 days. Without a public health justification, the stay in MIQ would likely be disproportionate to the risk posed.
9. Public health advice is that the risk of infection for these travellers is through the red zone pathway at the airport and within the MIQF. From a public health perspective, the risk of infection through the red zone pathway and within the MIQ facility itself is considered to be low: travellers through this pathway will have had pre-departure tests, most will be vaccinated, and there are numerous public health precautions when moving through the

airport and within the MIQF that provide additional mitigations (e.g. use of PPE, physical distancing, ventilation improvements).

10. The main risk (although it is a very low risk) is the potential for in-MIF transmission and then for these travellers to visit areas outside of Auckland (or areas with minimal or no current community transmission).
11. Therefore, it is advised that arrivals from these Pacific countries who entered MIQ from 25 October to 7 November pose a low risk and are able to leave MIQ on 8 November provided they:
 - a. are not contacts of a positive case
 - b. are asymptomatic
 - c. have tested negative for COVID-19 during their last routine test.
12. Arrivals from these countries are exempt from day 0/1 testing, so their first routine test is undertaken on day 3.
13. This will mean that the arrivals above are released as per below:

Arrival date	From	Number of people	Day of stay at 8 November	Release date
Wednesday 27 October	Tonga	18	Day 12 (have undergone day 3, 6/7 and may not have had day 11/12 testing)	8 November
Thursday 28 October	Samoa	15	Day 11 (have undergone day 3 and 6/7 testing)	8 November
Wednesday 4 November	Samoa	24	Day 4 (have undergone day 3 test)	When negative day 3 test returned (likely 8 or 9 November)
Friday 6 November	Samoa and Vanuatu	37	Day 2 (no routine tests undertaken. Day 3 test undertaken around 9 November)	When negative day 3 test returned (likely 10 or 11 November)

14. We note that this means that any people who arrive on the 6 November flight from Samoa and Vanuatu will need to remain in the facility until they return a negative day 3 test (taken on around 9 November). As noted above, we expect that most people will likely reschedule their flights on 4 and 6 November to after 8 November.
15. Public health consider that requiring receipt of this day 3 test is prudent given the (very small) public health risk associated with travelling through the red zone at the airport. Given there will be very few arrivals from newly QFT countries between 8 November and the receipt of the negative day 3 tests (around 10 or 11 November), delaying these travellers departure until they receive a negative day 3 test result should not result in equity concerns (i.e. if there were a significant number of travellers entering under QFT during this delayed departure period).
16. As per usual, all of these travellers should be advised to remain vigilant for symptoms of COVID-19 after they leave and to call Healthline, get a test, and self-isolate if COVID-19 symptoms develop.

Amendment to the Isolation and Quarantine Order

17. The people in MIQ before 8 November from Samoa, Tonga, Vanuatu and Tokelau are required to be there under clause 8(3) of the COVID-19 Public Health Response (Air Border) Order (No 2). That clause requires people to be isolated or quarantined in accordance with the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020 (the Isolation and Quarantine Order).
18. The Isolation and Quarantine Order currently requires people to stay in MIQ for 14 days. Amendments are progressing to reflect recent decisions to reduce the period of isolation in MIQ to 7 days followed by 3 days self-isolation. Those amendments will not come into effect until 14 November.
19. An amendment to the Isolation and Quarantine Order is required to allow people who arrived from Samoa, Tonga, Vanuatu and Tokelau after 25 October to leave MIQ from 8 November provided they meet the public health conditions above at paragraph 11.
20. When amending a COVID-19 Order, section 9 of the COVID-19 Public Health Response Act 2020 requires that you must:
 - a. have regard to advice from the Director-General of Health about the risks of the outbreak or spread of COVID-19; and the nature and extent of measures (whether voluntary or enforceable) that are appropriate to address those risks
 - b. be satisfied that the order does not limit or is a justified limit on the rights and freedoms in the New Zealand Bill of Rights Act 1990
 - c. have consulted the Prime Minister, Minister of Justice, Minister of Health, and you may consult any other Minister you think fit
 - d. be satisfied that the order is appropriate to achieve the purpose of the Act.
21. The public health advice set out above supports this change being consistent with the purpose of the Act and with advice provided by the Director-General of Health on the low-risk nature of these Pacific countries.
22. The proposed amendment promotes consistency with the right to be free from arbitrary detention under the New Zealand Bill of Rights Act 1990 by ensuring that the length of stay in MIQ for these people is proportionate to the public health risk.

Cancellation of vouchers no longer required

23. The paper that sought decisions from Ministers on one-way QFT with these countries noted that MIAS vouchers for travellers who no longer require them from 8 November will be cancelled in accordance with the voucher cancellation framework [HR20212 refers].
24. As at 28 October, there are 239 people (131 rooms) who have vouchers from these countries from 8 November until 31 January 2022 whose vouchers will be cancelled.
25. Industry have raised traveller concerns about cancelling vouchers and are seeking assurance that vouchers could be reinstated if the one-way QFT is paused for any reason.
26. Officials do not consider that assurance should be formally communicated to travellers. The situation that occurred with Australia and managed returns is unlikely in this scenario because it is one-way travel to New Zealand – there will not be the large numbers of New

Zealanders needing to return home. The impact would be that people who had vouchers cancelled would be required to secure a new MIQ voucher.

27. In the unlikely event that one-way QFT with these countries is paused, Ministers could review how to treat those whose vouchers had been cancelled. Given the small numbers, it is likely that reinstating cancelled vouchers could be accommodated within operational contingency depending on other system pressures.

Next steps

28. Subject to your agreement, the Parliamentary Counsel Office will draft an amendment to the Isolation and Quarantine Order. This amendment needs to be drafted urgently so it can come into effect at 11.59pm on 7 November.
29. We recommend you undertake the required consultation with Ministerial colleagues on this policy paper. We will provide you the final amendment Order to sign by Friday 5 November. It must be signed on Friday in order to come into effect at 11.59pm on 7 November.
30. MIQ also seeks your agreement to communicate this decision to the relevant returnees in MIQ as soon as possible so that they have advance notice of their early departure. This will allow them and MIQ to plan their onwards travel arrangements.