



## BRIEFING

### Draft LEG paper: COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Amendment Regulations (No. 2) 2021

<b>Date:</b>	30 July 2021	<b>Priority:</b>	Urgent
<b>Security classification:</b>		<b>Tracking number:</b>	2122-0209

Action sought		
	Action sought	Deadline
Hon Chris Hipkins <b>Minister for the COVID-19 Response</b>	Provide feedback to MBIE on the attached draft LEG paper: <i>COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Amendment Regulations (No. 2) 2021</i>	3 August 2021
	Consult your Ministerial colleagues on the final LEG paper, subject to the incorporation of any feedback you may have	4 August 2021
	Lodge the final LEG paper for consideration by the Executive Council on 9 August 2021	5 August 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		
	Senior Policy Advisor, System and Strategy, MIQ		

The following departments/agencies have been consulted
Ministry of Health, Ministry for Primary Industries, Ministry for Pacific Peoples, Ministry of Foreign Affairs and Trade, Ministry of Transport, Ministry of Justice, The Treasury, Crown Law, New Zealand Customs Service, Department of the Prime Minister and Cabinet.

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 Withdrawn           |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

This briefing provides you with the draft LEG paper: COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Amendment Regulations (No. 2) 2021. Following incorporation of your feedback, MBIE seeks your agreement to lodge the final LEG paper for consideration by Cabinet Executive Council on 9 August 2021.

#### Recommended action

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

a **Note** that on 12 July 2021, Cabinet authorised you to take decisions on the proposed amendments to the COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Regulations 2020 (the Regulations) so that the amendment Regulations could be drafted [CAB-21-MIN-0284 refers].

*Noted*

b **Note** that on 15 July 2021, you agreed to the proposed scope of a Ministerial power to waive or refund MIQ charges for classes of people in certain circumstances [briefing NSW-006 refers].

*Noted*

c **Note** that the COVID-19 Public Health Response Act 2020 (the Act) requires you to consult the Minister of Health before recommending cost recovery Regulations.

*Noted*

d **Consult** the Minister of Health on the proposed changes to the Regulations.

*Consulted / not consulted*

e **Note** that the Act requires the Minister for the COVID-19 Response to be satisfied that certain statutory prerequisites are met before recommending regulations affecting MIQ charges.

*Noted*

f **Indicate** whether you are satisfied that the following statutory prerequisites are met:

i. The charges concerned relate to managed isolation or quarantine facility (MIQF) costs (including direct and indirect costs);

Agree  Disagree

ii. the prescribed charges recover from any class of persons no more than an estimate of the actual and reasonable MIQF costs incurred in relation to that class (including both direct and indirect costs);

Agree  Disagree

iii. there is appropriate provision to grant relief from the payment of the prescribed charges in circumstances where payment of the charges would cause undue financial hardship; and

iv. the prescribed charges do not limit or are justified limits on the rights and freedoms in the New Zealand Bill of Rights Act 1990.

Agree / Disagree

g **Agree** to lodge the final LEG paper by 5 August 2021 for consideration by Cabinet and Executive Council on 9 August 2021.

Agree / Disagree

h **Note** we will provide you further advice on defining the class of people for whom a waiver or refund of MIQ charges could apply to in early August 2021.

*Noted*



Kara Isaac  
GM, MIQ Policy  
MIQ, MBIE

30.7.21



Hon Chris Hipkins  
Minister for COVID-19 Response

3 / 8 / 2021

## Background

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1. On 12 July 2021, Cabinet authorised you to take decisions on proposed amendments to the COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Regulations 2020 (the Regulations).
2. On 15 July 2021, you agreed to the scope of a proposed Ministerial power to waive or refund Managed Isolation and Quarantine (MIQ) charges for classes of people [briefing NSW-006 refers]. This power would allow you to waive fees for people returning to New Zealand as part of a managed return from New South Wales (NSW) and for those affected by the suspension of Quarantine Free Travel (QFT) arrangements with the rest of Australia on 30 July 2021.

## Draft Cabinet proposals

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3. A draft Cabinet paper with legislative proposals is attached: COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Amendment Regulations (No. 2) 2021 (refer **Annex One**).
4. The draft Cabinet paper proposes that the Regulations are amended to:
  - a. introduce a new power for the Minister for the COVID-19 Response to waive or refund MIQ charges for classes of people, in certain circumstances ; and
  - b. remove the technical requirement for an invoice to be issued where the amount of MIQ charges a person is liable to pay is zero.
5. The Cabinet paper also seeks agreement to waive the 28-day rule so that the Regulations will come into force on 10 August 2021 at 12.01 am.

### Legislative prerequisites for amending the Regulations:

6. Section 32B and section 32C of the COVID-19 Public Health Response Act 2020 (the Act) require that, prior to recommending regulations are made regarding MIQ charges, the Minister must be satisfied of the following matters:
  - a. The charges concerned relate to managed isolation or quarantine facility (MIQF) costs (including direct and indirect costs);
  - b. the prescribed charges recover from any class of persons no more than an estimate of the actual and reasonable MIQF costs incurred in relation to that class (including both direct and indirect costs);
  - c. there is appropriate provision to grant relief from the payment of the prescribed charges in circumstances where payment of the charges would cause undue financial hardship; and
  - d. the prescribed charges do not limit or are justified limits on the rights and freedoms in the New Zealand Bill of Rights Act 1990 (NZBORA).

*Charges relate to MIQF costs and do not recover more than an estimate of actual and reasonable MIQF costs*

7. The proposed amendments relate to MIQF costs but do not change the level of prescribed charges. The MIQ charges are currently set below the actual costs of MIQ, because they do not include costs of MBIE's partner agencies or other additional reasonable costs.
8. Therefore we consider that the proposed amendments meet the statutory prerequisites set out in paragraph 6a and 6b. above.

### *Appropriate provision to grant relief*

9. Regulations 9 and 10 of the Regulations provide for the Chief Executive of MBIE to waive MIQ charges on the grounds of undue financial hardship or in other special circumstances. The proposed amendments to the Regulations will be an addition to those existing levers in the MIQ charges regime to grant relief.
10. Therefore we consider that the proposed amendments meet the statutory prerequisites set out in paragraph 6c. above.

### *Justified limits on the rights and freedoms in the New Zealand Bill of Rights Act 1990*

11. 

Legal professional privilege
12. Therefore we consider that the proposed amendments meet the statutory prerequisites set out in paragraph 6d above.

### *Consultation with the Minister of Health*

13. Section 33A of the Act requires you to consult the Minister of Health prior to recommending regulations regarding the recovery of MIQF costs. We recommend that you consult the Minister of Health on these proposals as soon as possible.

## **Next steps**

14. We will provide you further advice seeking clarifications on defining the class of people that a Ministerial waiver or refund of MIQ charges could apply to in early August 2021.
15. The table below summarises further next steps:

<b>Action</b>	<b>Date</b>
Provide MBIE with feedback on draft LEG paper	3 August 2021
Circulate draft paper for Ministerial consultation	4 August 2021
MBIE to provide you with final LEG paper	5 August 2021
Lodge paper for consideration by Cabinet	5 August 2021
Cabinet	9 August 2021
Executive Council	9 August 2021
Gazette and Regulations come into force	10 August 2021

## **Annexes**

Annex One: Draft LEG paper – COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Amendment Regulations (No. 2) 2021.

## **Annex One: Draft LEG paper – COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Amendment Regulations (No. 2) 2021**

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Final Version Publicly Available: <https://www.mbie.govt.nz/dmsdocument/17694-covid-19-public-health-response-managed-isolation-and-quarantine-charges-amendment-regulations-no-2-2021-authorisation-for-submission-to-executive-council-proactiverelease-pdf>