



BRIEFING

For Ministerial consultation: Draft LEG paper to commence fees provisions in the COVID-19 Amendment Act, and associated Amendment Regulations and Commencement Order

Date:	17 January 2022	Priority:	Medium
Security classification:		Tracking number:	2122-2251

Action sought		
	Action sought	Deadline
Hon Chris Hipkins Minister for the COVID-19 Response	Agree to undertake Ministerial consultation on the attached draft LEG paper: <i>COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Amendment Regulations 2022 and COVID-19 Public Health Response Amendment Act 2021 Commencement Order 2022.</i>	25 January 2022
	Agree to lodge the final LEG paper for consideration by the Cabinet Business Committee on 1 February 2021 and Cabinet on 8 February 2021.	27 January 2022

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
Privacy of natural persons	Policy Manager, MIQ	Privacy of natural persons	✓
	Principal Policy Advisor, MIQ		

The following departments/agencies have been consulted
The Treasury, Ministry of Health, Immigration New Zealand, Ministry for Primary Industries, Ministry for Pacific Peoples, Ministry of Foreign Affairs and Trade, Ministry of Transport, Ministry of Justice, 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 Withdrawn |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



BRIEFING

For Ministerial consultation: Draft LEG paper to commence MIQ fees provisions in the COVID-19 Amendment Act, and associated Amendment Regulations and Commencement Order

Date:	17 January 2022	Priority:	Medium
Security classification:		Tracking number:	2122-2251

Purpose

This briefing provides the draft Cabinet paper: *COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Amendment Regulations 2022 and COVID-19 Public Health Response Amendment Act 2021 Commencement Order 2022*, and associated legislative instruments for ministerial consultation.

It also seeks your agreement to lodge the final LEG paper, Amendment Regulations and Commencement Order for consideration by the Cabinet Business Committee (CBC) on 1 February 2022 and Cabinet on 8 February 2022.

Recommended action

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

- a **Note** that the COVID-19 Public Health Response Amendment Act (No 2) 2021 includes one still to be enacted provision (section 18) relating to Managed Isolation and Quarantine (MIQ) charges, which comes into force by Order in Council, so as to align with the introduction of Amendment Regulations which give effect to this provision.

Noted

- b **Note** that section 18:

- reverses the starting point for MIQ charges, meaning that everyone who enters MIQ is liable to pay fees by default, unless they are exempt in the COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Regulations 2020 (the Regulations);
- shifts the MIQ fees exemptions for diplomats and their families from the Act into Regulations so that all exemptions can be found in one place.

Noted

- c **Note** that on 15 September 2021, CBC agreed to amend the Regulations to align with the changes to the Amendment Act [CBC-21-MIN-0104 refers].

Noted

- d **Note** that on 20 December 2021, you agreed to a commencement date of 10 February 2022 for the fees provision in the Amendment Act, and the corresponding Amendment Regulations [2122-2188 refers].

Noted

- e **Note** that the Act also requires you to be satisfied that the following statutory prerequisites are met before recommending regulations affecting MIQ charges:
- i. the charges concerned relate to managed isolation or quarantine facility (MIQF) costs (including direct and indirect costs);
 - 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);
 - 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.

Noted

- f **Agree** to undertake Ministerial consultation on the draft LEG paper, Amendment Regulations and Commencement Order by 25 January 2022.

Agree / Disagree

- g **Agree** to lodge the final LEG paper, Amendment Regulations and Commencement Order for consideration by CBC 1 February 2022 and Cabinet on 8 February 2022.

Agree / Disagree

- h **Agree** to proactively release this briefing with appropriate withholdings consistent with the Official Information Act 1982.

Agree / Disagree

Privacy of natural persons

Policy Manager
MIQ, MBIE

17 / 01 / 2022



Hon Chris Hipkins
Minister for COVID-19Response

17 / 01 / 22

Background

1. The COVID-19 Public Health Response Amendment Act (No 2) 2021 (the Amendment Act) received Royal Assent on 20 November 2021. The Amendment Act includes one still to be enacted section relating to Managed Isolation and Quarantine (MIQ) charges, which does the following:
 - reverses the starting point for MIQ charges, meaning everyone who enters MIQ is liable to pay fees by default, unless they are exempt in the COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Regulations 2020 (the Regulations);
 - shifts the MIQ fees exemptions for diplomats and their families from the Act into Regulations so all exemptions can be found in one place.
2. Section 18 (s 18) comes into force by Order in Council, to align with the introduction of Amendment Regulations consistent with the new fee liability starting point.
3. On 20 December 2021, you agreed to a commencement date of 10 February 2022 for the fees provision in the Amendment Act, and the corresponding Amendment Regulations [2122-2188 refers].
4. This briefing provides the following documents for Ministerial consultation:
 - Draft Cabinet paper: *COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Amendment Regulations 2022 and COVID-19 Public Health Response Amendment Act 2021 Commencement Order 2022 (Annex One)*
 - Draft Amendment Regulations (**Annex Two**)
 - Draft Commencement Order (**Annex Three**).
5. It also seeks your agreement to lodge the final package for consideration by CBC on 1 February 2022 and Cabinet on 8 February 2022.

Draft LEG paper for Ministerial consultation

6. The draft Cabinet paper seeks authorisation for submission to the Executive Council of the COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Amendment Regulations 2022, and the COVID-19 Public Health Response Amendment Act 2021 Commencement Order 2022.
7. The draft Cabinet paper also seeks agreement to waive the 28-day rule so that the Commencement Order and Regulations can come into force on 10 February 2022. This will ensure that the new liability starting point is in place to support the border reopening.
8. The Amendment Regulations:
 - ensure that current liability settings for New Zealanders are preserved when the liability starting point is reversed in the Amendment Act.
 - shift the exemption for diplomats and their families from the Act to the Regulations.
9. These are technical changes to preserve current liability settings when s 18 of the Amendment Act comes into force. They do not change who is currently liable to pay for MIQ or how much is charged.
10. The Commencement Order brings s 18 of the Amendment Act into force on 10 February 2022.

Legislative prerequisites for amending the Regulations:

11. 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:
- the charges concerned relate to managed isolation or quarantine facility (MIQF) costs (including direct and indirect costs);
 - 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);
 - 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
 - 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).
12. Officials view these considerations are met, given that the Amendment Regulations seek to ensure that current fee liability settings for New Zealanders and diplomats (which have been previously assessed as compliant with the considerations in paragraph 11 above) are maintained when s 18 of the Amendment Act comes into force. They do not make any changes to the fee levels themselves, or existing waiver provisions.

Next steps

13. The table below summarises next steps:

Action	Date
Ministerial consultation on draft LEG paper and instruments	18 - 25 January 2022
Final LEG paper and instruments provided to Office for lodgement	26 January 2022
Package lodged with Cabinet office	27 January 2022
CBC meeting	1 February 2022
Cabinet & Executive Council	8 February 2022
Publication of Regulations, Commencement Order in New Zealand Gazette and Legislative Instruments series	10 February 2022
28-day rule	Seeking waiver
Commencement	10 February 2022

Annexes

Annex One: Draft LEG paper: *COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Amendment Regulations 2022 and COVID-19 Public Health Response Amendment Act 2021 Commencement Order 2022*

Annex Two: Draft COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Amendment Regulations 2022

Annex Three: Draft *COVID-19 Public Health Response Amendment Act 2021 Commencement Order 2022*

Annex One: Draft LEG paper: COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Amendment Regulations 2022 and COVID-19 Public Health Response Amendment Act 2021 Commencement Order 2022

The final paper is available at:

[Amendments to the COVID-19 Public Health Response \(Managed Isolation and Quarantine Charges\) Regulations 2020](#) (PDF, 199KB)

Annex Two: Draft COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Amendment Regulations 2022

The final regulations are available at:

[COVID-19 Public Health Response \(Managed Isolation and Quarantine Charges\) Amendment Regulations 2022](#) – New Zealand Legislation

Annex Three: Draft *COVID-19 Public Health Response Amendment Act 2021 Commencement Order 2022*

The final Order is available at:

[COVID-19 Public Health Response Amendment Act 2021 Commencement Order 2022](#) – New Zealand Legislation