



BRIEFING

Draft Cabinet paper: Managed Isolation and Quarantine (MIQ) charges for temporary entry class visa holders

Date:	29 January 2021	Priority:	High
Security classification:	In Confidence	Tracking number:	2021-2120

Action sought		
	Action sought	Deadline
Hon Chis Hipkins Minister for COVID-19 Response	Provide feedback to MBIE on the attached draft Cabinet paper: <i>MIQ charges for temporary entry class visa holders</i>	1 February 2021
	Consult your Ministerial Colleagues on the draft Cabinet paper, subject to the incorporation of any feedback you may have	2 February 2021
	Lodge the final Cabinet paper for consideration by Cabinet Business Committee (CBC) on 10 February 2021	4 February 2021

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
Privacy of natural persons	Policy Director, Managed Isolation and Quarantine (MIQ) Unit, MBIE	Privacy of natural persons	✓
	Policy Advisor		

The following departments/agencies have been consulted on the draft Cabinet paper
Immigration New Zealand (MBIE), Immigration Policy (MBIE), Ministry of Education, Ministry of Justice, The Treasury, Ministry of Foreign Affairs and Trade, Crown Law Office

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 Withdrawn |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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Draft Cabinet paper: Managed Isolation and Quarantine (MIQ) charges for temporary entry class visa holders

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Purpose

To provide you with the draft Cabinet paper *MIQ charges for temporary entry class visa holders*, and following the incorporation of feedback, seek your agreement to lodge the final Cabinet paper for consideration by Cabinet Business Committee (CBC) on 10 February 2021.

Recommended action

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

- a **Note** that on 29 January 2021, you agreed to amend the COVID-19 Response Managed Isolation and Quarantine (MIQ) Charges Regulations 2020 (the Regulations) to make temporary entry class visa holders liable for standard MIQ fees (\$2,696 excluding GST) [briefing 2021-2054 refers] *Noted*
- b **Note** that in order to give effect to this decision, Cabinet must agree to amend the Regulations *Noted*
- c **Note** that to ensure these changes capture the 1,000 bachelor degree (and above) students approved to enter New Zealand as a class exception, the Regulations need to come into force before they start to arrive in April 2021 *Noted*
- d **Note** that in order to meet this timeframe, we have provided you with the draft Cabinet paper *MIQ charges for temporary entry class visa holders* for your feedback (refer Annex One) *Noted*
- e **Agree** (subject to the incorporation of your feedback) to circulate the draft paper for consultation with your Ministerial colleagues *Agree / Disagree*
- f **Agree** to lodge the final Cabinet paper for consideration by Cabinet Business Committee (CBC) on 10 February 2021 *Agree / Disagree*

Privacy of natural persons

Policy Director,
MIQ Unit, MBIE

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Hon Chris Hipkins
Minister for COVID-19 Response

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Background

1. On 28 January 2021, you agreed to amend the COVID-19 Response Managed Isolation and Quarantine (MIQ) Charges Regulations 2020 (the Regulations) to make temporary entry class visa holders liable for standard MIQ fees¹ (\$3,100 including GST) [briefing 2021-2054 refers].
2. The purpose of this change is to ensure that international students, who are temporary entry class visa holders, are liable to pay the standard MIQ fees. The impact will be that other temporary entry class visa holders² would also become liable to pay MIQ fees.
3. To give effect to this decision, you must seek Cabinet agreement to amend the Regulations.
4. To ensure these changes capture the 1,000 bachelor degree (and above) students approved to enter New Zealand as a class exception, the Regulations need to come into force before they start to arrive in April 2021.

Draft Cabinet proposals

5. Attached is a draft Cabinet paper *MIQ charges for temporary entry class visa holders* for your feedback (refer Annex One).
6. The draft Cabinet paper proposes that the Regulations are amended by removing the exemption for temporary entry visa class holders if they were ordinarily resident in New Zealand at 19 March 2020; and left New Zealand on or before 19 March 2020.

Legal considerations for amending the Regulations

7. The COVID-19 Public Health Response Act 2020 (the Act) provides the criteria for cost recovery and states that the Minister responsible for MIQ may recommend that regulations are made if the Minister is satisfied that:
 - a. 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); and
 - b. 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
 - c. 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).
8. We are satisfied these prerequisites have been met:
 - a. The standard MIQ fee (\$2,696 excluding GST) is largely subsidised by the Government, so will not over-recover actual MIQF costs for temporary entry class visa holders.

¹ This will not apply to 'other critical workers' or 'critical health workers' who are temporary border exceptions specified and treated differently in the Regulations.

² The other groups are: visitor visa holders, including tourists and family members visiting New Zealand; work visa holders; and limited visas (these are people entering New Zealand for a particular purpose, such as a wedding).

- b. Temporary entry class visa holders will continue to be able to apply for a fees waiver, which provides appropriate provision for relief from payment where it would cause undue financial hardship.
- c. New Zealand citizens and permanent residents have a protected right to enter New Zealand under NZBORA and the Immigration Act 2009. This does not apply to temporary entry class visa holders, therefore charging them standard MIQ fees does not unjustifiably limit their rights to enter New Zealand.

Next steps

- 9. Following the incorporation of your feedback, we will provide you with the updated draft Cabinet paper for Ministerial consultation on 1 February 2021.
- 10. In the table below we summarise further next steps:

Action	Date
Lodge paper for CBC	4 February 2021
CBC agrees policy	10 February 2021
Cabinet	15 February 2021
Drafting instructions issued to Parliamentary Counsel Office (PCO)	16 February 2021
Cabinet (LEG) paper and draft Regulations to Minister's Office for consultation (2 weeks)	25 February 2021
Cabinet (LEG) paper and Regulations lodged with Cabinet Office	11 March 2021
Cabinet Legislation Committee	18 March 2021
Cabinet and Executive Council	22 March 2021
Gazette and Regulations come into force	25 March (subject to Cabinet waiving 28 day Rule)

Annexes

Annex One: Draft Cabinet paper – MIQ charges for temporary entry class visa holders.

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Final Cabinet paper published @MBIE Document library: <https://www.mbie.govt.nz/dmsdocument/15113-managed-isolation-and-quarantine-charges-for-temporary-entry-class-visa-holders-and-extension-of-charging-for-miq-for-returning-new-zealanders-proactiverelease-pdf>