



COVERSHEET

Minister	Hon Chris Hipkins	Portfolio	COVID-19 Response
Title of Cabinet paper	Managed Isolation and Quarantine charges for temporary entry class visa holders and extension of charging for MIQ for returning New Zealanders	Date to be published	21 June 2021

List of documents that have been proactively released

Date	Title	Author
15 February 2021	Managed Isolation and Quarantine charges for temporary entry class visa holders and extension of charging for MIQ for returning New Zealanders	Office of the Minister for COVID-19 Response
15 February 2021	CAB-21-MIN-0016, Managed Isolation and Quarantine Charges for Temporary Entry Class Visa Holders	Cabinet Office
March 2021	Supplementary Analysis Report: Amendments to the COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Regulations 2020	MBIE
18 March 2021	COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Amendment Regulations 2021	Office of the Minister for COVID-19 Response
18 March 2021	LEG-21-MIN-0028, COVID-19 Public Response (Managed Isolation and Quarantine Charges) Amendment Regulations 2021	Cabinet Office

Information redacted

YES

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Some information has been withheld for the following reasons; Confidential advice entrusted to government, free and frank opinions, legal professional privilege, and confidential advice to government.

Office of the Minister for COVID-19 Response

Chair, Cabinet

Managed Isolation and Quarantine charges for temporary entry class visa holders and extension of charging for MIQ for returning New Zealanders

Proposal

- 1 This paper seeks Cabinet's agreement to make all temporary entry class visa holders liable for the Managed Isolation and Quarantine (MIQ) fee of \$4,800 + GST for the first or only person in a room, to allow the Government to recover closer to the actual costs of MIQ. This proposal requires an amendment to the COVID-19 Public Health Response (Managed Isolation & Quarantine Charges) Regulations 2020 (the Regulations).
- 2 This paper also:
 - 2.1 Seeks an in-principle agreement from Cabinet to extend the minimum period that returning New Zealanders and permanent residents must remain in the country to be exempt from paying MIQ fees, from 90 days to 180 days; and,
 - 2.2 Seeks Cabinet agreement to delegate authority to the Attorney General and the Minister for COVID-19 Response to make final decisions on this following further policy and legal advice.

Relation to Government priorities

- 3 This paper relates to the Government's strategy for the elimination of, and recovery from, COVID-19. MIQ is a key part of managing the risks of COVID-19 coming through the border.
- 4 Facilitating the arrival of international students (who are temporary entry class visa holders) also supports the 'Early Return of Students' theme of the *Strategic Recovery Plan for International Education* announced in July 2020.

Executive Summary

- 5 Temporary entry class visa holders include visitor visa holders (tourists and family members visiting New Zealand), student visa holders, work visa holders and limited visa holders.
- 6 Under the Regulations, temporary entry class visa holders are currently liable for the standard MIQ fee of \$2,696 + GST unless they were 'ordinarily resident' in New Zealand at 19 March 2020 (and left at or before that time).
- 7 The original intent of that exemption provision was to ensure that if people were ordinarily resident in New Zealand when the border closed, and were caught overseas, they should be able to return to New Zealand without there being a financial barrier.

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- 8 As more time has passed, I have revisited this rationale against the increasing costs of MIQ to the Government, I consider it appropriate that more people entering the country should contribute to the costs of their MIQ stay.
- 9 I propose making all temporary entry class visa holders liable for the higher MIQ fee of \$4,800 + GST for the first or only person in the room. This is the same fee that 'other critical workers' (who enter New Zealand under a border exception and hold temporary entry class visas) are charged.
- 10 This will involve amending the Regulations to:
- 10.1 remove the exemption of fees for temporary entry class visa holders who were ordinarily resident at 19 March 2020 and left before this date; and
 - 10.2 set within the Regulations that all temporary entry class visa holders are liable to pay the prescribed MIQ fee of:
 - 10.2.1 \$4,800 (GST exclusive) for the first or only person in the room;
 - 10.2.2 \$2,600 (GST exclusive) for an additional adult in the same room;
 - 10.2.3 \$1,400 (GST exclusive) for an additional child (3-17 years) in the same room.
- 11 The proposed changes are also intended to capture the international students scheduled to arrive in New Zealand from April 2021, as well as all other temporary entry class visa holders due to arrive from that date.
- 12 The proposed changes will bring the fee level for temporary entry class visa holders to the same level as that of 'other critical workers', and contribute to reducing the MIQ costs borne by the Government and taxpayers.
- 13 Under current settings, critical health workers, as temporary entry class visa holders, are liable for the standard fee of \$2,696 + GST. At this time, I do not intend on making critical health workers liable for the higher fee. Any resurgence of COVID-19 in the community may require the need for critical health workers to enter New Zealand quickly. Charging higher fees for MIQ may have impacts on the health workforce, and the Government's ability to quickly scale up resources if required.

Background

- 14 On 19 March 2020, Cabinet agreed to restrict entry to New Zealand for all persons from other countries to reduce the risk of importing COVID-19 [CAB-20-MIN-0122 refers]. On 9 April 2020, the Director-General of Health issued an Order (then under section 70 of the Health Act 1956) requiring all people entering New Zealand by air to enter MIQ.
- 15 Since May 2020, Cabinet has taken steps to transition MIQ to a more sustainable operating model, and to improve the overall management of flow across the border and demand for MIQ places.

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- 16 The COVID-19 Public Health Response Act 2020 (the Act) establishes clear legal authority for the Ministry of Business, Innovation and Employment (MBIE) to charge people entering New Zealand for the costs of their stay in MIQ.
- 17 The Regulations set fees for people entering MIQ facilities. The MIQ fees system came into effect on 11 August 2020.

The fee system was introduced because it was not sustainable for the government to continue to fund all the costs of MIQ

- 18 The MIQ fee system aims to strike a balance between the protected rights of New Zealanders to enter New Zealand and having an economically sustainable public health response to COVID-19.
- 19 The fees currently set out in the Regulations for New Zealand citizens and residents are:
 - 19.1 \$2,696 (GST exclusive) for the first or only person in the room;
 - 19.2 \$826 (GST exclusive) for an additional adult in the same room;
 - 19.3 \$413 (GST exclusive) for an additional child (3-17 years) in the same room;
 - 19.4 No charge for a child under three years old sharing a room.
- 20 New Zealand citizens and residents¹ are currently liable for a charge if they are overseas and return to New Zealand for less than 90 days; or left New Zealand after 11 August 2020 and return at a later date.
- 21 The Regulations provide that temporary entry class visa holders are liable for MIQ charges unless they were ordinarily resident at 19 March 2020 and left New Zealand before that date.
- 22 It was always intended that the Regulations would be kept under regular review. To date, one significant change to the Regulations has been made to set a higher fee for 'other critical workers' (who hold temporary entry class visas) to better balance the costs of MIQ with employers who receive a direct benefit from workers entering the country.
- 23 The fees for critical workers are \$4,800 (GST exclusive) for the first or only person in the room, \$2,600 (GST exclusive) for a fellow adult resident of the first person and \$1,400 (GST exclusive) for a child who is aged 3 years or older at the time they enter MIQ. This amendment came into force on 1 January 2021 [CBC-20-MIN-0136 refers].
- 24 Temporary entry class visa holders (except for 'other critical workers') who are liable for the payment of fees can apply for a waiver. The Chief Executive of

¹ 'New Zealand citizen or resident' means New Zealand citizens (including those in the Cook Islands, Niue and Tokelau) and residence class visa holders. It also includes Australian citizens and permanent residents who are ordinarily resident in New Zealand.

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MBIE can grant a full or partial MIQ fee waiver in cases of undue financial hardship or other special circumstances. The Chief Executive can also defer payment due dates in appropriate situations and allow for payment by instalment if financial hardship would otherwise result.

Changing the Regulations to make temporary entry class visa holders liable for the same \$4,800 + GST fee as critical workers

- 25 I propose amending the Regulations so that all temporary entry class visa holders, including those who were ordinarily resident at and left the country before 19 March 2020, are liable to pay the prescribed MIQ fee of:
- 25.1 \$4,800 (GST exclusive) for the first or only person in the room;
 - 25.2 \$2,600 (GST exclusive) for an additional adult in the same room;
 - 25.3 \$1,400 (GST exclusive) for an additional child (3-17 years) in the same room;
- 26 The proposed changes will allow the Government to recover closer to the actual costs of MIQ and provide consistency with how we charge 'other critical workers'. I propose that this change does not apply to critical health workers.
- 27 MIQ is a key part of managing the COVID-19 response. The fees system was introduced in order to share the costs of MIQ in a way that fairly reflects the benefits to both the New Zealand public of having a robust system, and to those who enter the country.
- 28 The intent of the initial fees exemption for temporary entry class visa holders who were ordinarily resident in New Zealand at 19 March 2020 and left before this time was to ensure that individuals who were caught overseas were not prevented from returning to New Zealand due to financial barriers (i.e. as a result of the MIQ fees).
- 29 However, as more time has passed the international environment suggests MIQ will be needed for the foreseeable future, and with the whole-of-life cost of providing MIQ facilities increasing, I consider it appropriate that more people entering New Zealand, including all temporary entry class visa holders, contribute to the costs of their MIQ stay.
- 30 I also consider it is appropriate that the Government reduce the level of MIQ subsidy for temporary entry class visa holders it has been providing to temporary visa holders, and shift to fees settings for this group that will recover closer to the actual costs of MIQ.
- 31 The higher fee of \$4,800 + GST was introduced for 'other critical workers' to reflect that their employers receive the direct economic benefit from bringing overseas workers through the New Zealand border. Unlike critical workers, not all temporary entry class visa holders are arriving in New Zealand for job-related reasons or necessarily have an employer. However, I consider that temporary visa holders receive strong (non-economic) benefits in being able to enter the

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country, and as such, should be liable for the same higher fee as 'other critical workers'.

- 32 This proposal would require changing the Regulations so that the current exemption from paying MIQ fees would be removed for temporary entry class visa holders (i.e. for those people who were ordinarily resident in New Zealand at 19 March 2020, and left New Zealand on or before 19 March 2020) and a separate fee would be set for all temporary entry class visa holders, similar to what has been done for 'other critical workers'.

Who will be affected by the proposed changes?

- 33 Groups who are captured in the temporary class visa holder category include:
- 33.1 Visitor visa holders, including tourists and family members visiting New Zealand;
 - 33.2 Student visa holders;
 - 33.3 Work visa holders; and
 - 33.4 Limited visas.
- 34 Further information on the estimated number of current temporary visa holders is set out from paragraph 41 onwards.
- 35 If you agree to the proposed changes, then all the people captured in these groups would become liable to pay the higher MIQ fees, including those who were ordinarily resident and left on or before 19 March 2020, as that exemption will be removed.
- 36 Temporary entry class visa holders do not have the same legal right as New Zealand citizens or permanent residents to return to New Zealand under the New Zealand Bill of Rights Act 1990 (i.e. section 18 – every New Zealand citizen has the right to enter New Zealand) or Immigration Act 2009 (i.e. section 13 – New Zealand citizens may enter and be in New Zealand at any time; and section 46(2)(a) – permanent resident visa holders are entitled to entry permission). Therefore charging temporary entry class visa holders for their stay in an MIQ facility does not engage the provision protecting the rights of individuals to enter New Zealand. The human rights considerations are discussed later in this paper.
- 37 At this time, I have only considered whether to extend the higher MIQ fee to student visa holders and all other temporary entry class visa holders (except for critical health workers). Broader changes to the MIQ Fees system, including who should be liable and whether the fee level is appropriate, will form as part of MBIE's broader review of the MIQ fees system. I will report back to Cabinet on any potential changes to the fees settings following completion of that Review.
- 38 Apart from removing the exemption from fees for temporary entry class visa holders who were ordinarily resident in New Zealand at and left before 19 March

2020, at this stage I do not intend on removing other exemptions from MIQ fees already identified in the Regulations. Section 8 of the Regulations identifies the persons who are exempt from MIQ charges – this will remain unchanged.

Fee collection

- 39 The fees from the people impacted by the proposed changes will be collected through the existing MIQ fees process. For example, international students will receive an invoice once they have completed their MIQ stay and they will be required to pay within the standard timeframe of 90 days as per the Regulations.

Potential implications from the proposed changes

- 40 The proposed changes to the Regulations are expected to result in more people liable to pay the MIQ fees and more people liable to pay the higher MIQ fee. There are effectively three ‘tiers’ of MIQ fees in the Regulations. The nature of the tiers and expected shifts are detailed below.

40.1 **‘Tier 1’ - No liability to pay fee.** This group currently captures New Zealanders and permanent residents who are returning for at least 90 days.² If the minimum period is increased to 180 days then it is expected that fewer people would fall within this group, compared to current numbers. Temporary visa holders who were ordinarily resident at 19 March 2020 (and left before that date) will no longer be exempt from fees under proposed settings and be captured under ‘tier 3’ further reducing the number of people not liable for MIQ fees.

40.2 **‘Tier 2’ - Standard MIQ fee of \$2,696 + GST (for the first/only person in the room).** This currently captures temporary entry class visa holders (except for critical workers) and New Zealand citizens and permanent residents who stay in New Zealand for less than 90 days.³ If Cabinet agrees to my proposal to make all temporary entry class visa holder liable to the higher fee (see ‘tier 3’) then this group will consist of other critical health workers. If the minimum period is also extended to 180 days, then this group will also include New Zealand citizens and permanent residents staying less than 180 days.

40.3 **‘Tier 3’ - Higher MIQ fee of \$4,800 + GST (for the first/only person in the room):** This fee level currently only applies to other critical workers. If Cabinet agrees to proposals to make all temporary entry class visa holders (except where otherwise exempted in the Regulations and critical health workers) liable to this higher fee, then the group of people liable to pay this higher amount will increase.

- 41 Overall, I expect there will be an increase in revenue generated under the proposed settings as a result of more people paying MIQ fees. MIQ officials will

² There are other groups of people exempt from MIQ fees outlined in Section 8 of the Regulations that also fall within this group – for the purpose of this Cabinet paper they are not reflected in the fee tier description.

³ This also captures New Zealand citizens and residents who left after 11 August 2020 and returned to New Zealand –they are not impacted by proposed changes.

provide a fuller impact analysis on expected revenue generated under the proposed settings and submit this with the Legislative paper to be considered by Cabinet Legislative Committee in March 2021.

Indicative estimates

Temporary entry class visa holders

- 42 At this time, it is difficult to quantify the number of current temporary entry class visa holders that may be impacted by these proposed changes. However, officials have provided me with the following estimates.
- 43 Between 19 March 2020 and 22 January 2021, 18,905 Temporary Visa Holders had entered New Zealand.
- 43.1 Of these 11,964 had entered New Zealand after the MIQ Fees System was established on 11 August 2020.
- 43.2 Most (11,850) were potentially liable for fees, unless covered by an exemption (for example travelling with an exempt partner or were ordinarily resident in New Zealand at and left before 19 March 2020).

Students – Border class exception

- 44 For the 1,000 bachelor degree (and above students) due to arrive from April 2021, under proposed settings, approximate \$4.800 million + GST will be the expected revenue generated from fees collection of this cohort of students. This assumes that all 1,000 students are returning to study New Zealand (a criterion for studying in New Zealand).

New Zealand citizens, permanent residents and Australians who were normally residents

- 45 It is difficult to estimate the likely impact on revenue generation through the fees system from extending the minimum period that returning New Zealanders and permanent residents must be in the country to be exempt from pay the fees from 90 days to 180 days. However, my officials advise the following indicative estimates:
- 45.1 Since the introduction of the MIQ fees system (as at 22 January 2021), 51,569⁴ New Zealand citizens and permanent residents, and Australian normally resident had arrived in the country.
- 45.2 Of these, 5,119 (10%) had left within 90 days of arrival and a further 1458 (3%) left after more than 90 days (maximum of 164 days).

⁴ 44,992 of the 51569 New Zealanders who entered New Zealand after 11 August 2020 were still in New Zealand as at 22 January 2021. This group includes people who will have incurred fees because they had left New Zealand after the fees system was introduced as well as others who are exempt fees because they left New Zealand prior to the introduction fees.

- 46 Based on these figures, if the minimum period is extended from 90 days to 180 days as proposed and before exemptions and waivers are considered, the estimated revenue increases from approximately \$9 million to \$12 million⁵ (excl GST). This is because all people identified in paragraph 48.2 will become liable for the MIQ fee as they have all left New Zealand within 180 days.
- 47 Officials will assess the impacts of the proposed changes on each group of temporary entry class visa holders as part of the impact analysis.

Fee waiver

- 48 Under the current Regulations, full or partial MIQ fee waivers are available in cases of undue financial hardship or other special circumstances. This is to ensure that the fees do not present an unjustified barrier on the rights of New Zealand citizens and permanent residents to return to New Zealand.
- 49 At this time, I consider it appropriate to maintain the fee waiver provision for temporary entry class visa holders (except for 'other critical workers'). Confidential information entrusted to the Government

International students will be captured within the proposed amendments to the Regulations

- 50 In September and December 2020, the Ministerial group considering border class exceptions for international students (a group of temporary entry class visa holders) approved 250 PhD and postgraduate students and 1,000 bachelor degree (and above) students to enter New Zealand.
- 51 The 250 PhD and postgraduate students have now started to arrive. The 1,000 bachelor degree (and above) students are scheduled to arrive in staggered cohorts from April 2021, and will book places in MIQ via the Managed Isolation and Allocation System (MIAS) as they become available.⁶
- 52 When agreeing the class exceptions for the 1,000 bachelor degree (and above) students, it was Ministers' intention that the students would pay standard MIQ charges.
- 53 Ministry of Education officials have had regular conversations with peak bodies and other sector representatives over the past several months outlining that the Confidential advice to Government but that New Zealanders and returning residents pay \$2,696 + GST, therefore the current expectation across the sector is that returning international students will pay \$2,696 + GST towards MIQ costs.
- 54 The Ministry of Education suggests consideration could be given toward providing an exemption for these cohorts, and that they be subject to MIQ costs of \$3,100. Any future exception classes could be liable to pay the higher MIQ charges.

⁵ Note these figures are based on the assumption of a room occupancy rate of 1.4 people.

⁶ Expected arrivals (subject to space in MIAS): 300 in April-May; 300 in May-June; 400 in June-July.

- 55 International students have now started to return to New Zealand under the 250 exception class cohort. The proposal that the changes to the Regulations come into effect before the first cohort under the 1,000 exception class start to arrive in April 2021, will ensure that those students have as much clarity as possible as to the MIQ fees they are liable to pay as they plan their return to New Zealand.
- 56 MIQ will work closely with the Ministry of Educations (and other sector bodies) to ensure communications to students is consistent with the Regulations and that all people liable are notified of the changes.

Other critical workers and critical health workers

- 57 'Other critical workers' are already subject to the fee level of \$4,800 + GST therefore the proposed changes will not affect this. This fee was set to reflect that 'other critical workers' enter New Zealand primarily for economic or job-related reasons and their employers receive benefits for having them in the country.
- 58 Under current settings, critical health workers, as a temporary entry class visa holder, are liable for the standard MIQ fee of \$2,696 + GST. At this time, I do not intend on making critical health workers liable for the higher fee.
- 59 Any resurgence of COVID-19 in the community may require critical health workers to enter New Zealand quickly. Charging higher fees for MIQ may have impacts on the health workforce, and the Government's ability to quickly scale up resources if required.

Extending the minimum time that returning New Zealand citizens and permanent residents are required to remain in country to be exempt from MIQ fees

- 60 Currently returning New Zealand citizens and permanent residents are exempt from fees for MIQ if they remain in New Zealand for a minimum of 90 days from the date of their arrival.
- 61 This paper seeks an in-principle agreement from Cabinet to extend this period from 90 days to 180 days. This change will provide a disincentive to people return to New Zealand for periods of just over 90 days to get around being liable for MIQ fees.
- 62 This change would mean that any New Zealand citizen or permanent resident who leaves New Zealand within 180 days of their return would be liable for the relevant fee (starting from \$2,696 + GST for the first or only person in a room).
- 63 Further policy and legal work is needed to understand the impact any such change would have on New Zealanders' right to enter New Zealand under the NZBORA, including whether the extension would be a justified limitation on New Zealanders' rights to enter New Zealand. Further advice is also needed with regard to how this change would intersect with any future quarantine free travel zones that are established (e.g. People who return to New Zealand and then within 180 days travel within the quarantine free travel zone for a holiday).

- 64 Therefore, I seek Cabinet agreement to delegate authority to me as the Minister for COVID-19 Response and the Attorney General to make final decisions relating to any extension following further policy and legal advice.

Risks and other considerations

- 65 There is a risk that making changes to the Regulations at pace may give rise to unintended consequences in policy and drafting, including potential difficulties in operationalising the proposed changes.
- 66 There is also a risk that exempting critical health workers from the higher fee may present some parity issues with how different groups of temporary entry class visa holders are treated under the Regulations. Confidential information entrusted to the Government
Confidential information entrusted to the Government
- 67 To date, communications to students via the education providers have been that students will be liable for the standard MIQ fee of \$2,696 + GST. MIQ officials expect that the education sector will signal the higher fee may impact the sector by disincentivising students from traveling to New Zealand.
- 68 Booking places in MIQ via the Managed Isolation and Allocation System (MIAS) is currently possible until the end of May 2021. Extending the liability for fees for MIQ from 90 to 180 days will impact on any returnees who have already booked flights and hold MIQ vouchers for April and May and were intending to return for between 91-179 days. This will be subject to further advice.

Safe Travel Zone – related amendments to the Regulations

- 69 Confidential advice to Government


Minor and Technical Change to the Regulations will also be progressed

- 70 On 14 December 2020, Cabinet noted that minor and technical changes are required to the Regulations to ensure that exemptions from MIQ fees for New Zealanders and qualifying Australians apply in the context of quarantine-free travel with Australia and the Cook Islands and will be progressed in early 2021 [CAB-20-MIN-0532 and CAB-20-MIN-0515 refer].
- 71 I intend to progress these minor and technical changes along with the proposals in this paper.

MBIE's broader review of the MIQ fees system and other considerations

72 As our current MIQ fees regime was implemented at pace in 2020, MBIE officials will also be undertaking a wider review of the MIQ fees system. I will report back to Cabinet in May with the outcome of that review.

73 Free and frank opinions



Timing and 28-day rule

74 To ensure that my proposed changes to the Regulations are in place before April 2021 (prior to the arrival of the 1,000 international students), I propose that the changes come into force on the 25 March 2021. This would also be the day of Gazetting. This means that temporary entry class visa holders and their families that arrive in New Zealand on or after 25 March 2021 will be liable to pay the MIQ fees. This will include the 1,000 bachelor degree and above students already approved by Ministers in considering class exceptions.

75 The proposal will capture some of the 250 PhD and postgraduate students that arrive on or after 25 March 2021. However, this will not apply to those students already in MIQ before 25 March 2021.

76 Subject to Cabinet's agreement, I will direct officials and the Parliamentary Counsel Office (PCO) to begin drafting amendments to the Regulations for consideration by Cabinet Legislation Committee on 18 March 2021.

77 The waiver of the 28-day rule is sought so the Amendment Regulations can come into force on 25 March 2021. Waiving the 28 day rule is necessary to ensure the new fees are in place for the students due to arrive in New Zealand from 1 April 2021 and they are able to be charged the prescribed MIQ fee.

78 I am aware that there will be a small proportion of students who have already booked their place in MIAS before the Amendment Regulations come into force, however I judge that a line in the sand is the most fair and practicable way of operationalising the changes.

Financial implications

79 The proposals in this paper are intended to address fiscal costs to the Crown while enabling temporary entry class visa holders to travel to and enter New Zealand. The proposed fee reflects the average weighted MBIE-related cost for a person in in MIQ (\$4,800 +GST per person), and does not include costs

incurred by MIQ partner agencies. As such, even the higher fee incorporates a degree of subsidisation by the Government.

- 80 Information regarding returning New Zealand citizens or residents who have subsequently left the country within 91-179 days of MIQ facilities being implemented is not known. As such, it is not possible to forecast the financial impact on the Crown of extending the minimum time period of time required to remain in country from 90 to 180 days for returning New Zealand citizens and residents.

Treaty of Waitangi obligations

- 81 Due to time constraints and the pace at which the policy and regulations has been developed, there has been no further analysis or work done to identify potential wider impacts this proposed amendment may have on the Māori community. It is possible that the proposed changes may impact Māori who hold citizenship of another country (this may be a small group) or on educational institutions.
- 82 The Supplementary Analysis report will aim to provide further analysis on the potential impacts of the proposed amendments to different populations and sectors.

Impact Analysis

- 83 Due to time constraints, a Regulatory Impact Statement (RIS) has not been produced for this Cabinet Paper. Pursuant to the Cabinet's impact analysis requirements, Treasury has agreed that MBIE will produce a Supplementary Analysis Report (SAR) for the proposed changes to the changes for temporary entry class visa holders.
- 84 The SAR to be provided to Cabinet Legislation Committee will provide a fuller analysis of the financial implications, including the expected revenue to be generated from the proposed changes.


Population implications

- 85 Amending the Regulations to make temporary class visa holders liable for MIQ fees will have varying economic impacts on individuals depending on their personal financial situations. Flat user charges could have a disproportionate effect on students with lower socio-economic backgrounds. Continuing to allow full and partial waivers for financial hardship and the ability to pay in instalments should help to mitigate further financial stress.
- 86 The proposed temporary entry class visa holders amendments to the Regulations are not expected to have implications for Māori returning home to New Zealand as they would not be entering under the temporary visa class exception, although it could impact on non-citizen or resident partners and/or family members of Māori.

- 87 The proposal to extend the liability for MIQ charges from 90 days to 180 days will have varying economic on individuals who leave New Zealand between 91 and 179 days after their return depending on their personal financial situations.

Human Rights

- 88 There are no human rights implications of the proposed changes to temporary entry class visa holders. The proposed changes do not engage the right to freedom to enter New Zealand contained in s 18(2) of the New Zealand Bill of Rights Act 1990 (NZBORA) because temporary visa holders are by definition not New Zealand citizens.

- 89 Legal professional privilege
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- 90 The proposal to extend the minimum period from when returning New Zealand citizens and residents are exempt from MIQ fees from 90 days to 180 days post arrival impacts on New Zealanders' right to enter New Zealand under the NZBORA. I have not yet received advice on whether the extension would be a justified limitation on New Zealanders' rights to enter New Zealand. I will seek Crown Law advice before making any final decision.

Proactive release

- 91 This paper will be proactively released following enactment of the legislation, with redactions made as appropriate, including to address issues of legally privileged advice, commercial sensitivity and foreign relations.

Communications

- 92 A communications plan will be developed by officials in consultation with the Minister's office and other relevant agencies to ensure widespread awareness of amendments to the fees regime.

Consultation

- 93 The following agencies were consulted on the changes to temporary entry visa class holders: Ministry of Education, the Treasury, Ministry of Justice, Ministry of Foreign Affairs and Trade, and the Ministry of Business, Innovation and Employment (Immigration policy).
- 94 No agencies have been consulted on the proposal to extend liability for MIQ fees for returning New Zealand citizens and residents from 90 days to 180 days.

Recommendations

The Minister for COVID-19 Response recommends that the Committee:

- 1 **Note** that the MIQ fee system aims to strike a balance between the protected rights of New Zealanders to enter New Zealand and having an economically sustainable public health response to COVID-19;
- 2 **Note** that Cabinet intended that the Regulations would be kept under regular review;
- 3 **Note** that under the current COVID-19 Public Health Response (Managed Isolation & Quarantine Charges) Regulations 2020, temporary entry class visa holders are liable for the standard Managed Isolation and Quarantine (MIQ) fees⁷ unless they were 'ordinarily resident' in New Zealand at 19 March 2020 (and left at or before that time);
- 4 **Agree** that all temporary entry class visa holders are made liable for the MIQ fees of:
 - 4.1 \$4,800 (GST exclusive) for the first or only person in the room;
 - 4.2 \$2,600 (GST exclusive) for an additional adult in the same room;
 - 4.3 \$1,400 (GST exclusive) for an additional child (aged 3-17 years) in the same room;
- 5 **Note** the proposal outlined in Recommendation 4 involves the removal of the exemption from MIQ fees of temporary entry class visa holders who were ordinarily resident in New Zealand at 19 March 2020 (and left before that date), and setting within the Regulations a separate fee level for temporary entry class visa holders (similar to what has been done for 'other critical workers');
- 6 **Note** that the Minister for COVID-19 Response does not intend to make critical health workers liable for the higher fee;
- 7 **Note** as more time has passed the international environment suggests MIQ will be needed for the foreseeable future, and with increasing MIQ costs to the Government, the Minister for COVID-19 Response considers it appropriate that more people entering the country, including all temporary entry class visa holders, to contribute to the costs of their MIQ stay;
- 8 **Note** that in September and December 2020, the Ministerial group considering class exceptions approved 250 PhD and postgraduate students, and 1,000 bachelor degree and above students to enter New Zealand;
- 9 **Note** that the current expectation across the International Education sector is that returning international students will pay \$2,696 + GST towards MIQ costs;

⁷ The standard MIQ fee is \$2,696 + GST for the first or only person in a room, \$826 + GST for the second adult in a room and \$413 for a child over the age of 3 years.

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- 10 **Note** this amendment is intended to capture all temporary entry class visa holders, including international students, due to arrive in New Zealand after 25 March 2021;
- 11 **Agree** that the proposed changes to the COVID-19 Public Health Response (Managed Isolation & Quarantine Charges) Regulations 2020 come into effect on 25 March 2021 before the first cohort of the bachelor degree (and above) students arrive in April 2021;
- 12 **Note** that all temporary entry class visa holders (other than 'other critical workers') will still be able to seek fee waivers, however, this issue will be considered as a part of the wider MIQ fees review;
- 13 **Agree** in-principle to extend the minimum time that returning New Zealand citizens and permanent residents are required to remain in country to be exempt from MIQ fees from 90 days to 180 days;
- 14 **Delegate** authority to the Attorney General and the Minister for COVID-19 Response to make final decisions in relation to Recommendation 14 following further policy and legal advice;

15 Confidential advice to Government

- 16 **Note** the Minister for COVID-19 Response intends to progress minor and technical changes to the COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Regulations 2020 to ensure the exemptions from MIQ fees for New Zealanders continue to operate in the context of a safe travel zone;

Report back to Cabinet on wider changes to MIQ Fees

- 17 **Note** that MBIE are undertaking a wider review of the MIQ fees system;

Legislation

- 18 **Invite** the Minister for COVID-19 Response to issue drafting instructions to the Parliamentary Counsel Office to draft regulations to give effect to Cabinet's decisions on this paper;
- 19 **Authorise** the Minister for COVID-19 Response to make decisions on any matters, consistent with the policy proposals in this paper that may arise during the drafting process;

Communications

- 20 **Note** that a communications plan will be developed by officials in consultation with the Minister's office and other relevant agencies to ensure widespread awareness of amendments to the fees regime.

I N C O N F I D E N C E

Hon Chris Hipkins

Minister for COVID-19 Response