



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.

Supplementary Analysis Report : Amendments to the COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Regulations 2020

Section 1: General information

1.1 Purpose

The Ministry of Business, Innovation and Employment (MBIE) is primarily responsible for the analysis and advice set out in this Supplementary Analysis Report, except as otherwise explicitly indicated. This analysis and advice has been produced for the purpose of informing final decisions to proceed with a policy change to be taken by Cabinet which will inform regulatory changes to the Managed Isolation and Quarantine (MIQ) fee settings.

The proposed approach involves amending the COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Regulations 2020 (the Regulations) to:

- Charge temporary visa holders (excluding critical health workers, aircrew and maritime crew) the increased MIQ fees of \$5,250 (\$4,800 + GST) for the first occupant of a room; and
- Make New Zealanders¹ who departed New Zealand before 11 August 2020 leave between 90 and 180 days after arrival liable for standard MIQ fees of \$3,100 (\$2,696 + GST).

The Regulations were made under the COVID-19 Public Health Response Act 2020. This Act remains in force until 13 May 2022 unless repealed early.


1.2 Context

The Government's overall public health strategy in respect of the COVID-19 pandemic is elimination. The Ministry of Health (MOH) is the lead agency on the Government's elimination strategy.

What is Managed Isolation and Quarantine?

- MIQ plays a central role in preventing COVID-19 from entering the community across the border. People entering the country spend fourteen days in managed isolation facilities. If they test positive for COVID-19 at any point, they are transferred to a quarantine facility.
- Between April 2020 and 18 February 2021, over 113,000 people have stayed in MIQ. This includes managing over 650 imported COVID-19 cases.

¹ 'New Zealanders' throughout this document means New Zealand citizens (including those in the Cook Islands, Niue and Tokelau) and residence class visa holders with entry permission. It also includes Australian citizens and permanent residents who are ordinarily resident in New Zealand.

- All people arriving in New Zealand by air are required to stay in MIQ facilities for at least 14 days with very limited exceptions². This is required by Orders made under the COVID-19 Public Health Response Act 2020.
- The current operational capacity of MIQ is 4500 rooms, accommodating approximately 6000 returnees per fortnight. There are 32 MIQ facilities located in Auckland, Hamilton, Rotorua, Wellington and Christchurch. MIQ capacity is constrained by the type of facilities used and health system capacity, which limits its scalability.
- MIQ will be needed as long as it remains the best way of preventing the introduction of COVID-19 to our communities, our collective tolerance for COVID-19 transmission remains low, and there is uncontrolled spread of COVID-19 in many places overseas. It is likely these conditions will remain in the medium term.
- A mix of public sector agencies (MOH, District Health Boards (DHBs), New Zealand Defence Force (NZDF), Aviation Security Service (AvSec), New Zealand Customs Service (Customs), New Zealand Police (Police) and Immigration New Zealand) and contracted service providers (management, security and food services) support the management of the MIQ facilities and provision of wrap-around health and welfare services for people during their stay. Hotels have been key partners since April 2020, with individual contracts put in place by MOH as additional supply was required.
- Confidential advice to Government

- In December 2020, Cabinet approved funding to support the health system's COVID-19 response and to maintain MIQ facilities. This included an additional funding of \$1.74 billion to ensure the MIQ operating model is fully resourced up to June 2022. This reflects the ongoing financial pressure to continue to operate MIQ facilities in the medium term.

Fees for MIQ

- On 11 August 2020, the MIQ fees regime came into force to support the financial sustainability of the MIQ system. New Zealanders who left New Zealand before the regime came into force who enter for less than 90 days, or who leave New Zealand after the regime came into force are now charged (although full or partial waivers are available). Temporary visa holders currently have to pay, unless they left New Zealand on or before 19 March 2020, and were ordinarily resident in New Zealand as of 19 March 2020. All critical workers entering New Zealand are liable for charges at a higher rate than New Zealand citizens and other visa holders. MIQ fees are set out in the COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Regulations 2020. Section 2.1 sets out the MIQ fees settings in greater detail.
- The proposed amendments to the MIQ fees settings will impact temporary visa holders (excluding critical health workers, aircrew and maritime crew, and travellers otherwise exempt, such as humanitarian visa holders and partners of New Zealanders when travelling with their New Zealand partner). This includes international students set to

² People exempt from MIQ include diplomats and New Zealand air crew (though they are required to self-isolate). A full list of exempt people is set out in Section 8 of the COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Regulations 2020

arrive in the country from April 2021. Some of these visa holders were not previously liable for MIQ fees as they were previously ordinarily resident in New Zealand, while some were liable for the standard fee of \$2,696 + GST. The amendments will impose the higher MIQ fee upon this group (\$4,800 + GST for the first occupant of a MIF room).

- They will also affect New Zealanders who left New Zealand before the fees regime came into force and enter the country for fewer than 180 days. These travellers were not previously liable for fees; they would now be liable for a fee of \$2,696 + GST (for the first occupant of a room).

MANAGED ISOLATION AND QUARANTINE

Key facts and figures

CURRENT CAPACITY



4,500 rooms



32 facilities



5 regional locations

PEOPLE



113,440 returnees



652 imported COVID-19 cases



More than **4,000** staff

THE MANAGED ISOLATION ALLOCATION SYSTEM (MIAS)



203,512 registrations



66,767 vouchers issued



95,192 travellers

EMERGENCY ALLOCATION



2,156 applications received



950 approved



1,206 declined

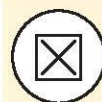
EXEMPTIONS



4,564 applications received



620 approved



2,667 declined

FEES



7,820 invoices sent



3,189 waivers approved



2,577 invoices paid
\$8,628,501 recovered

Note: All data is dated 18 February 2021; Capacity is the number of rooms in facilities at one time, taking into account rooms for cleaning, quarantine, air crew, transit passengers, deportees and a contingency to cover emergencies; MIAS is open for bookings for the next three months; Exemptions includes all classes of MIQ exemptions such as joining someone in a facility, as at 18 February 2021 1181 applications for exemptions have been withdrawn.

1.3 Limitations or Constraints on Analysis

Time constraints and other decision-making limitations

The Minister for COVID-19 Response with the agreement of Cabinet, sought to amend the Regulations before April 2021 with the regulatory changes for temporary visa holders to come into force on 25 March 2021. This will be before the first tranche of international students arrive in April 2021.

Due to the fast tracking of the proposed amendments to the Regulations, MBIE is limited in its ability to fully consider the wide-ranging issues with the MIQ fees system and pursue standard policy development and regulatory process.

The following limitations have been identified as a result of this work being progressed at pace:

- (1) we are unable to identify the full range of options for setting a fee amount because we are unable to calculate the full cost of MIQ; only MBIE costs have been calculated thus far;
- (2) we were unable to proceed with standard policy and regulatory development processes which gave rise to the following challenges:
 - limited consultation with other Government agencies on the proposed regulations;
 - limited consultation with affected parties and the public;
 - waiver of the 28-day rule for implementing regulatory changes (discussed in Section 4.1); and
 - unable to undergo a standard regulatory impact analysis to inform policy decisions – instead this Supplementary Analysis Report is provided to support final decisions made at Cabinet approving the proposed amendments to the Regulations.
- (3) we were also unable to address the complexities of the industries and persons impacted and potentially impacted by the proposed changes (this will be discussed later in Section 4).

Quality and absence of data

There are data gaps that have limited our ability to provide a fuller impact analysis of the proposed changes to the Regulations. These data issues exist because there are several data systems that are utilised across the MIQ system and are currently not integrated. The key data issues are outlined below:

- The Immigration system established in March 2020 to receive requests for border exceptions in response to the New Zealand border closure were solutions built quickly with basic capabilities and limited reporting. It is not possible to determine temporary visa holders' purposes of traveling to New Zealand through the current system.
- Data is available on the number of border exceptions granted for each border exception category, but at present it is not possible to determine how many people from each border exception category has entered the country. This means we can determine, for example, how many 'previously ordinarily resident' border exception applications have been approved, but not how many people from this category have subsequently entered New Zealand.

- Due to data privacy requirements, some data matching cannot take place without legislative change.
- The Managed Isolation Allocation System (MIAS) does not currently require a person to enter their immigration status or visa details. This functionality will be introduced in the next update to MIAS, expected at the end of March 2021.

MBIE is working with MIQ partner agencies to address the limitations around information and data sharing via a type of information-sharing agreement.

Legislative restraints

We are limited in our ability to recover full costs of MIQ because of the need to balance people's rights to enter New Zealand under the New Zealand Bill of Rights Act 1990 (BORA; for New Zealand citizens) and the Immigration Act 2009 (for New Zealand residents).

In general, increasing the fees charged to people returning to New Zealand via MIQ may increase the financial burden on families and individuals already facing potentially challenging circumstances. Balancing the rights of New Zealanders to return to New Zealand underpins the current prescribed fee of \$2,696 + GST for the first occupant in a MIF room.

The option to increase the fees for New Zealanders returning to New Zealand (within the existing regulations) is currently not an option being considered. Further consideration of MIQ fee settings will be included in the MIQ fees review, planned for March 2021.

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Quality Assurance Reviewing Agency:

Treasury (chair) and Ministry of Business, Innovation and Employment

Quality Assurance Assessment:

Partially meets

Reviewer Comments and Recommendations:

A quality assurance (QA) panel with representatives from the Regulatory Impact Analysis Team at the Treasury and the Ministry of Business, Innovation and Employment have reviewed the Supplementary Analysis Report "Amendments to the COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Regulations 2020" produced by the Ministry of

Business, Innovation and Employment. The review panel considers that it **partially meets** the Quality Assurance criteria.

The analysis produced in the Supplementary Analysis Report was limited due to a lack of data held on Managed Isolation and Quarantine Facilities to date, however the QA panel considers that the cautious approach taken by the Ministry of Business, Innovation and Employment in setting the new fees mitigates the risk of over-recovery posed by deficient data.

There was also a lack of consultation due to time constraints and the sensitive nature of the proposal. As the Ministry of Business, Innovation and Employment were able to consult on potential BORA risks, and it was determined that the risk was low, the QA panel does not consider the lack of consultation to be a significant detriment to the decision making process.

Section 2: Problem definition and objectives

2.1 What is the current state within which the action is proposed?

MIQ plays a central role in preventing COVID-19 from entering the community through the border. MIQ is a complex system of accommodation facilities, personnel, information systems, and testing regimes that enable positive COVID-19 cases to be detected early after arrival to New Zealand and to be isolated from the community. There are significant costs associated with MIQ. On 11 August 2020, the MIQ fees regime came into force to support the financial sustainability of the MIQ system. On 1 January 2021, the fees regime was updated to increase the fee for critical purpose visa holders (these are workers who have an employer in New Zealand).

The continued uncontrolled spread of COVID-19 abroad suggests MIQ will be needed for the foreseeable future, and with increasing MIQ costs to the Government it is appropriate that more people entering the country, including all temporary entry class visa holders, to contribute to the costs of their MIQ stay.

Legal framework of the MIQ fees system

The COVID-19 Public Health Response Act 2020 (the Act) also sets out the requirements for cost recovery. Section 32C of the Act requires the responsible Minister is satisfied that:

- the prescribed charges recovered from any class of persons are no more than an estimate of the actual and reasonable MIQ facility costs incurred in relation to that class (including both direct and indirect costs); and
- 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).

Section 32D of the Act also provides for the methods that can be used to determine how MIQ fees may be recovered.

Under the Act, the charges must:

- relate to managed isolation and quarantine facilities costs (including direct and indirect costs);
- recover from any class of persons no more than an estimate of the actual and reasonable MIQ facility costs incurred in relation to that class (including both direct and indirect costs);
- ensure 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;
- do not limit or are justified limits on the rights and freedoms in the NZBORA.

MIQ Fees Regulatory framework

On 11 August 2020, the MIQ fees regime came into force to support the financial sustainability of the MIQ system. The fees prescribed in the current Regulations are less than the total MIQ MBIE-related costs per person.

Amendments to the Act introduced the MIQ fees regime and established clear legal authority for MBIE to charge people entering New Zealand for the costs of their stay in MIQ.

The fees set out in the Regulations for people entering New Zealand (including critical health workers but excluding other critical workers) are:

- \$2,696 + GST (\$3,100³ including GST) for the first or only person in the room
- \$826 + GST (\$950 including GST) for an additional adult in the same room
- \$413 + GST (\$475 including GST) for an additional child (3-17 years) in the same room
- No charge for a child under three years old sharing a room.

People who are required to pay the managed isolation charge will receive an invoice after their departure from managed isolation and will generally have 90 days to pay.

The fees set out in the Regulations for other critical workers are:

- \$4,800 + GST (\$5,520 including GST) for the first or only person in the room
- \$2,600 + GST (\$2,990 including GST) for an additional adult in the same room
- \$1,400 + GST (\$1,610 including GST) for an additional children (3-17 years) in the same room

Employers of critical workers are liable for their workers' MIQ fees, and have 30 days to pay.

Applications to waive fees are considered on a case-by-case basis. Waivers are available in cases of undue financial hardship or other special circumstances (except for other critical workers). Certain classes of people are exempt from charges altogether, for example, people entering New Zealand as part of a medical evacuation, or people entering New Zealand for the first time as a refugee, deportee or returning offender. A person must apply to the Chief Executive of MBIE for a waiver.

Who is currently liable for the MIQ fee?

Under current fees settings, the following persons, unless exempt, are liable for the prescribed fee of \$2,696 + GST:

- New Zealanders who were overseas when the regulations first came into force and are returning to New Zealand for the first time since the regulations came into force (11 August 2020) for a period of less than 90 days;
- New Zealanders that leave New Zealand after the Regulations came into effect (11 August 2020) and return at a later date;
- Temporary entry class visa holders, unless they left New Zealand on or before 19 March 2020, and were ordinarily resident in New Zealand as of 19 March; or

³ Some workers, like aircrew, are charged on a pro-rata basis - \$221 (including GST) per person per day.

- A person who has entered New Zealand on a border class exception as a ‘critical health worker’ or in accordance with the immigration instructions⁴.

Other critical workers are liable for a higher fee

Changes to the Regulations came into effect on 1 January 2021 to introduce a higher MIQ fee for people entering New Zealand on a border class exception of ‘other critical worker’. This fee is set at \$4800 + GST and the employer or sponsoring agency of the critical worker is liable for payment. This fee was changed to more accurately reflect the cost of MIQ.

2.2 What is the policy problem or opportunity?

The root problem that requires policy intervention is the COVID-19 pandemic and the need to keep COVID-19 out of our community. New Zealand is one of a handful of countries that has succeeded in eliminating uncontrolled spread of COVID-19. This has enabled us to keep our people safe and continue daily life in a way that is not possible in many places overseas.

MIQ is key to our efforts in preventing COVID-19 entering the community, and for it to operate effectively it must be well-run, well-funded and well-supported by the general public. If the Crown was to cover the entire cost of MIQ, it would be taking on a level of debt that would burden future generations over those currently using and benefiting from MIQ. High levels of government spending on MIQ could mean less money spent on other elements of the COVID-19 response or on other Government priorities.

Having a fees regime helps spread the financial burden of MIQ between those using the system and the general public, who also benefit from it. However, the split between Crown and user funding has been identified as uneven for certain groups in particular.

The policy and regulatory problems identified within the current fees settings are set out below:

The \$2,696 MIQ fee reflects a significant level of government subsidisation

The problem identified during the initial development of the Regulations was that the MIQ operating system is financially unsustainable. MBIE considers that more of the costs should be borne where they are created. Work was undertaken in late 2020 to better identify the cost of MIQ. The result of this was a higher fee applied to other critical workers from 1 January 2021. This fee is still an incomplete reflection of the true cost of MIQ, as it only covers costs incurred by MBIE and does not account for costs incurred by other agencies such as New Zealand Defence, Aviation Security and New Zealand Police.

Charging temporary visa holders for their use of MIQ would mean contributing towards the high cost on taxpayers under current settings.

- Commercial Information
- MBIE plans to undergo further analysis to understand the fuller costs of MIQ, particularly those cost relevant to all Government agencies’ involvement in MIQ but we are limited in our ability to do this now to inform the proposed amendments to the Regulations.

Many international students are not currently liable for MIQ fees

⁴ A ‘critical health worker’ is defined in the immigration instructions and on the Immigration New Zealand website as a person in a role to deliver critical services in the health and disability sector starting before 31 March 2021. This category is being refined and is expected to be made a permanent category with criteria focused on regulated medical professionals and medical equipment technicians

Student visas are a type of temporary entry class visa. When Border Exceptions Ministers granted a class exception for international students, they did so on the basis that these students would pay for the cost of their MIQ stays. The Government has publically communicated that international students would be liable to pay MIQ fees.

This was accepted by the universities. All communications from the Government and from universities noted that students would be liable for fees.

However, due to the speed of policy-making, the interaction of the new border exception category for students and the provision in the Regulations exempting previously ordinarily resident temporary visa holders from fees was not noted. The majority of the 1000 undergraduate and Masters students who will be returning to New Zealand from 1 April will be previously ordinarily resident.

There is no way to make international students liable for the higher level of MIQ fee without changing the Regulations.

There is concern that New Zealanders are adjusting the length of their visits home to avoid fee liability

A secondary objective of the MIQ fees system is to lower demand for MIQ services related to short-term travel [LEG-20-MIN-0141 refers].

MIQ is a limited resource and demand for MIQ spaces consistently exceeds supply. While it is understandable that people want to come home on holiday to see their family and friends, this kind of discretionary travel reduces the number of spaces in MIQ for people who have genuine needs to return to New Zealand.

Analysis suggests that as of 22 January 2021, around 1,458 New Zealanders (3% of New Zealanders who had come through MIQ) had left the country again between 90 and 164 days⁵ of their entry. There is concern that people coming here for holidays are deliberately extending the amount of time they spend in New Zealand to just over 90 days to avoid becoming liable for fees.

The increased timeframe would provide a disincentive for people planning to return to New Zealand for periods of just over 90 days in order to get around being liable for MIQ fees. We recognise that there are a range of reasons why people depart New Zealand shortly after 90 days, and we do not hold clear data on why this occurs.

2.3 Who is affected and how?

This section will set out how the proposed changes will impact temporary visa holders. This section will also set out how these changes will impact their relevant sectors/industries.

A range of temporary visa holders will be directly affected by the changes

The proposed changes will apply to most temporary visa holders. This category includes:

- Visitor visa holders, including tourists and family members visiting New Zealand;
- Student visa holders;
- Work visa holders; and
- Limited visa holders.⁶

⁵ This data collection only started on 11 August 2020, so there had not been a full 180 days of data collection at this point.

⁶ Limited visas let you enter New Zealand for a particular purpose only e.g. to go to a wedding, funeral, get medical treatment, or to visit a sick or injured relative.

Visa holders not affected by this change include:

- Critical health workers;
- Partners and children of New Zealanders travelling with their New Zealand family member; and
- People entering New Zealand for humanitarian reasons.

The majority of people affected will be students, with a smaller number of work visa holders who lived in New Zealand before the border closure in March 2020 also affected. Our ability to determine how many people fall into these categories is limited, but we estimate the number to be around 1,500-1,700 in total.

New Zealand citizens and permanent residents who return to New Zealand for between 90 and 180 days will be directly affected by the changes

Currently, New Zealand citizens are only liable for MIQ fees if they left after 11 August 2020, or if they left before 11 August 2020 but are returning to New Zealand for fewer than 90 days. The proposed changes to the Regulations will mean that New Zealanders who left New Zealand before 11 August 2020 and return for between 90 and 180 days are also liable to pay the standard MIQ fee.

Temporary visa holders who have already booked their travel to New Zealand will be impacted by the fees changes if they enter after 25 March 2021

The proposed changes will mean that all temporary visa holders who enter New Zealand on or after the date the Regulations come into force will pay the same amount in MIQ fees (excluding critical health workers). There will be a number of temporary visa holders who have already booked their place in the managed isolation allocation system before the amended Regulations come into force. However, MBIE considers that a line in the sand is the fairest and practicable way of operationalising the changes.

Free and frank opinions

Air and maritime crew will not be affected

International air crew generally do not spend a full fourteen days in MIQ and currently pay the standard fee, pro-rated⁷. Any increase in fees would be significant for airlines. New Zealand's international air connections are fragile. Many flights into New Zealand are not commercially viable and are subsidised by the International Air Freight Capacity (IAFC) scheme, so increased costs would likely be passed onto the Ministry of Transport in the short term. If the IAFC ends at the end of April 2021, as currently planned, the cumulative costs when combined with the marginal commercial viability of flights to New Zealand could lead airlines to exit the New Zealand market.

New Zealand has an obligation under the Maritime Labour Convention 2006 to facilitate the replacement and repatriation of seafarers. At present, most seafarers only enter MIQ for 1-3 days before boarding their vessels. If fees were to increase, it would likely see a rise in

⁷ Air New Zealand crew do not enter MIFs, but self-isolate at home or in a self-isolation hotel. As such, they do not pay MIQ fees.

seafarers travelling straight to their vessels, increasing the risk of introducing COVID-19 to their ships.

Critical health workers will not be affected

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 our ability to quickly scale up resources if required. MBIE has received feedback from health providers that MIQ fees have impacted their ability to recruit international health practitioners to New Zealand (e.g. rural General Practitioners).

Critical health workers will not be adversely impacted by the proposed approach, because the Regulations will expressly stipulate that they are excluded from the new fees for temporary visa holders. They will continue to be subject to the standard fee. This mirrors the decision taken by Cabinet in December 2020 to exempt critical health workers from higher MIQ fees when they were introduced for other critical workers.

Table 1: Groups affected by proposed fee changes

	Tier 1 – No fees	Tier 2 – \$2696+GST	Tier 3 – \$4800+GST
Current system	New Zealanders who left New Zealand before 11 August 2020 returning for more than 90 days	New Zealanders returning for less than 90 days	Other critical workers
	Partners and children of the above New Zealanders travelling with them	New Zealanders who left New Zealand after 11 August 2020	
	Temporary visa holders ordinarily resident in NZ prior to 19 March 2020	Critical health workers	
	Humanitarian visa holders	Student visa holders	
		Other temporary visa holders (eg limited visa holders, air and maritime crew)	
New system	New Zealanders who left New Zealand before 11 August 2020 returning for more than 180 days	New Zealanders returning for less than 180 days	Other critical workers
	Partners and children of the above New Zealanders travelling with them	Critical health workers	Student visa holders
	Humanitarian visa holders	Air and maritime crew	Temporary visa holders ordinarily resident in NZ prior to 19 March 2020
			Other temporary visa holders (eg limited visa holders, visitor visa holders)

NZBORA implications on extending the 90 day period to 180 day

The 90 day period for people who will be liable for the MIQ fee was set as a measure for 'temporary travel' and draws a line in the sand for 'temporary travellers' to be liable for the MIQ fee – this provision intended to support the secondary objective of the MIQ fees setting to lower the demand of MIQ provision linked with short-term travel.

Under current settings, individuals who leave within this 90 day period are able to apply for fee waivers if they are experiencing undue financial hardship or access flexible payment plans. Therefore, officials considered the 90 day period provision, as part of the wider fees settings, to be a justified limitation on New Zealand citizens and permanent residents' rights to enter the country (as outlined above).

The proposed changes will involve shifting the MIQ liability period from 90 days to 180 days but the following features of the MIQ fees settings will remain unchanged:

- the fee amount remains at \$2,696 + GST for the first/only person in a room – these charges reflect no more than the actual and reasonable costs of person's stay in MIQ;
- enabling some classes of people to be exempt from the charges (these exemptions will remain unchanged); and
- the fee waiver provision and flexibility on payment of fees will remain in place for people who are captured within the proposed changes.

The proposed change will enable the Government to recover more of the costs of providing MIQ services, making the provision of MIQ services more financially sustainable (aligning with the primary objective for the MIQ fees system). It will contribute to an economically sustainable response to COVID-19.

The impact of the proposed change will continue to favour those choosing to repatriate to New Zealand. It may deter more people from undertaking travel to New Zealand for periods of less than 180 days, which limits their rights in NZBORA. The proposed change continues however to align with the secondary objective to the extent that it will lower demand for MIQ services within the 180 day period.

The proposal continues to be justified as the prescribed charge will reflect no more than actual and reasonable costs of their stay in MIQ, and will therefore contribute to the fiscal sustainability of MIQ services. Further, in the context of the global pandemic and the need to protect the public health of New Zealand, deterring short-term travel may be seen as reasonable.

On this basis and given MIQ's role in New Zealand's public health response to COVID-19 and the increasing costs of MIQ, officials consider the proposed changes to be a justified limitation on New Zealand citizens and permanent residents' rights to return to New Zealand.

Treaty of Waitangi implications

MIQ does not currently hold data to demonstrate how proposed changes will affect Māori individuals and whānau intending to return to New Zealand for less than 180 days, however, we would expect the scale of the impact on the number of Māori to be small. The changes to fees for temporary visa holders may also affect Māori tino rangatiratanga by making it harder for Māori employers to bring workers into the country or deter international students from enrolling at wānanga.

We have not engaged with Māori on the proposed changes to the Regulations and this may give rise to issues or concerns that the Crown is not meeting its responsibilities under the Treaty of Waitangi. This may present risks that the Crown is not upholding the principles of actively protecting the Māori community, and partnering with Māori as key decision-makers to inform policy design and delivery and the principle of participation (which is about providing spaces for equitable opportunities for Māori to engage in solutions to achieve better outcomes for their communities).

In the absence of engagement and partnership with Māori in the development of the proposed changes, some of the concerns raised in the initial development of the principal Regulations are still relevant here. In July 2020, recommendations were made by a group of a small number of iwi leaders to the All of Government Caring for Communities team in relation to fee waivers, including:

- Decision makers should be educated in tikanga to protect against discrimination in decision-making.
- Tikanga Māori should be incorporated into the waiver criteria so that cultural considerations are adequately considered by decision-makers (including supporting Māori to return to their whenua to keep home fires burning 'ahi kā' or practices and obligations associated with tangihanga)
- The Government should take a partnership approach, including by involving Māori, in decision making.

These recommendations were echoed in a submission by the Māori Law Society – in particular, providing adequate time to properly consult with Māori on the development of the MIQ fees Regulations.

To address these, MIQ considered at the time that some of these issues could be addressed in operational policy, including ensuring tikanga Māori is considered when deciding the outcome of fee waivers. These settings remain in place under the proposed changes to the Regulations. However, as part of the broader review of the MIQ fees system, we intend to look at the system as a whole to understand the impacts on whānau, hapū, iwi and wider Māori communities – with a particular focus on whether the Crown has met its responsibilities under the Treaty of Waitangi.

2.4 What are the objectives sought in relation to the problems identified?

The primary objective of the MIQ fees regime is to recover some of the costs of MIQ services to make the provision of MIQ services more financially sustainable. The MIQ fees regime has a secondary objective of lowering demand for MIQ services related to short-term travel [LEG-20-MIN-0141 refers].

The objectives sought in relation to the problems outlined above are as follows:

- that the fees regime moves closer to accurately recovering the costs of MIQ
- that the rights of people to return to New Zealand are preserved

- that the fees regime is consistent and easy to understand

The additional objectives are that the fees regime:

- intends to ensure that those who derive economic benefit from migration bear a proportionate cost of the MIQ system, noting that this includes migrants, employers and the general public
- balances the following needs: certainty; clarity; equitability; and is simple and pragmatic where possible.

The first two objectives exist in tension with each other, and a balance is required to move further towards cost recovery without infringing the rights of returning New Zealanders.

The objectives are reflected in the criteria in Section 3.1.

Section 3: Options Identification

3.1 MIQ fees regime criteria for assessing proposed approach

The MIQ fees regime aims to support the recovery of MIQ costs incurred by users, not cause unjustified limitation on the rights and freedoms of New Zealanders, and being clear and transparent about the costs involved in MIQ. The proposed changes set out below aim to address the problems identified in the previous section.

Table 2: MIQ fees regime criteria

The MIQ fees regime should....	so this means the regulations will ...
be clear and certain about the MIQ fee	be transparent and upfront about the cost that travellers will incur before they arrive in New Zealand
not have unjustified limitations (if any) on New Zealanders wishing to return home	have a minimum necessary restriction on New Zealanders' right to enter New Zealand under BORA and the Immigration Act 2009 (for residents) – charges should be a proportionate limitation on rights necessary to manage the public health risks posed by COVID-19
accurately recover costs	prescribe a fee that neither over-recovers costs nor significantly under recovers them
be simple and pragmatic where ever possible	be feasible to implement
Support an economically sustainable public health response to COVID-19	balance the right of New Zealanders and permanent residents to enter New Zealand with the need to have an economically sustainable MIQ system

3.2 Assessment of Options

There are three key decisions that will be assessed in this section:

- Whether temporary visa holders who were previously ordinarily resident should be liable for fees
- At what level fees should be set for temporary visa holders
- When New Zealanders should become liable for fees

Decision 1: Should temporary visa holders who were previously ordinarily resident be liable for fees?

Amending the Regulations to make temporary visa holders previously resident in New Zealand liable for fees. This will include those currently not liable because they are ordinary resident and out of the country when the borders closed on 19 March 2020. This will deliver on

Ministers' intention that international students are liable to pay the MIQ fee. It will improve consistency for all temporary entry class visa holders.

There are three main options to consider in making temporary visa holders liable for higher MIQ fees:

- **Option 1 (status quo):** Maintain that temporary visa holders who were previously ordinarily resident in New Zealand are not liable for fees.
- **Option 2 (preferred option):** Make all temporary visa holders, regardless of whether they were previously ordinarily resident in New Zealand, liable for MIQ fees.
- **Option 3:** Make student visa holders who were previously ordinarily resident in New Zealand liable for fees, but do not introduce liability for fees for other temporary visa holders who were previously ordinarily resident.

Option 1 (status quo)

If we do not alter the Regulations, it is likely that:

- The majority of international students granted a border exception will not be liable for MIQ fees. From this group alone, this is likely to amount to at least \$2.5 million (exc GST) of costs not recovered
- An unknown amount of cost will not be recovered from other classes of temporary visa holders who were previously ordinarily resident in New Zealand.

This option treats temporary visa holders previously ordinarily resident in New Zealand the same as New Zealand citizens and permanent residents. This reflected our initial approach in seeking to allow people with a connection to New Zealand to return 'home'. However, it has been more than six months since the 'previously ordinarily resident work visa holder' border exception category was created and it is arguable that those who wished to return to New Zealand have had the opportunity to do so. A change in approach is indicated to ensure the ongoing financial sustainability of MIQ.

Option 2 (preferred)

This option recognises that temporary visa holders as a group should be subject to pay fees, regardless of whether or not they used to live in New Zealand and when they left New Zealand. It would simplify the fees regime, create clarity around liability, and reduce the risk of operational error.

It is difficult to estimate the amount of costs that would be recovered because we do not have data on how many people previously exempt from the fees would become liable and who intend to travel to New Zealand. Fees from international students are likely to be between \$2.5 and \$4.4 million (exc GST) depending on what level they are set at. Work visa holders previously ordinarily resident will also contribute additional revenue, though due to data constraints we cannot predict how much.

Option 3

This option would achieve Ministers' intention that international students are liable to pay MIQ fees, but we believe it would introduce uncertainty and inequity into the system. There is no strong argument as to why students should pay MIQ fees if work visa holders do not, especially if work visa holders are entering New Zealand for economic benefits. This option would recover between \$2.5 and \$4.4 million of costs from the cohort of international students but is likely to face significant pushback from tertiary institutions and students themselves. Additional fees from other temporary visa holders previously resident will continue to be foregone.

Decision 2: At what level should fees be set for temporary visa holders?

At present, temporary visa holders are either charged no fees, the standard fee of \$2,696 (exc GST) or the higher fee of \$4,800 (exc GST). Only one category of temporary visa holders, 'other critical workers' are charged the higher fees.

The more complex the fee regime, the more difficult and expensive it is to be administered and the higher the risk of administrative errors in determining who should be charged and at what level.

- **Option 1 (status quo):** continue the three different fee levels for different groups of temporary visa holders.
- **Option 2:** Charge all temporary visa holders (excluding other critical workers and those currently exempt in legislation) the standard MIQ fee of \$2,696.
- **Option 3 (preferred option):** Charge all temporary visa holders (excluding critical health workers, air and maritime crew, and those currently exempt in legislation) the higher MIQ fee of \$4,800 (the same as the fee for critical workers).

Option 1 (status quo)

The status quo leads a wide range of possible fees for temporary visa holders depending on what criteria they meet. There is no deliberate policy rationale behind this tiered fees regime, as it is the product of iterative decision-making. The complexity of determining which fee each traveller is liable for increases the chance of administrative errors.

Option 2

This option would represent the most minor change of the three options. The main change would be for temporary visa holders previously ordinarily resident in New Zealand, who would be liable for fees for the first time. However, the standard MIQ fee only partially recovers MIQ costs and puts more of the system's financial burden on the Crown.

Option 3 (preferred)

This option would result in most temporary visa holders experiencing an increase to their MIQ fees. Critical health workers would be exempted from the higher fee because they are entering New Zealand to work in the health system. Air and maritime crew would also continue to pay the lower fee in recognition of the importance of maintaining international passenger and freight connections. There may be disincentive effects for temporary visa holders who were previously either not liable for fees or liable for the lower fee. This option is forecast to bring in an additional \$4.7 million revenue over six months than the status quo.

Under this option, the two MIQ fees would effectively become a New Zealanders' fee of \$2,696 and a temporary visa holders' fee of \$4,800.

Decision 3: When should New Zealanders be liable for MIQ fees?

At present, New Zealanders are charged fees:

- if they left the country before 11 August 2020 and return to the country for less than 90 days, or
- if they left the country after 11 August 2020.

The intention of these criteria is to disincentivise discretionary travel during a pandemic while allowing New Zealanders abroad a way to come home. This aligns with the secondary objective of lowering demand for MIQ services related to short-term travel.

Because of the length of time the fees system has been in place, the evidence of how many New Zealanders that leave the country between 90 and 180 days after arrival is still emerging⁸. In late January 2021, it appeared that around 3% of New Zealanders had left the country between 90 and 164 days of their arrival.

- **Option 1 (status quo):** Maintain the 90 day period for MIQ liability.
- **Option 2 (preferred option):** Extend the fee liability period to 180 days.

Option 1 (status quo)

When the fees regulations came into effect in August 2020, it was intended that those people who were entering New Zealand for short-term travel will be liable for MIQ fee charges (such as, for travelling for holiday or business purposes).

The period of '90 days' was considered a measure of 'temporary stay' for people returning to New Zealand [LEG-20-MIN-0127 refers]. This 90-day period corresponds with what is considered a 'short-term' stay or visit in the immigration system and aligns with Statistic New Zealand's definition of short term arrival and most visa waiver visitor durations.

Without a change to the system, a small number of New Zealanders would continue to leave the country between 90 and 180 days after arrival, using MIQ spaces when they intend to be in the country for a relatively short period of time (i.e. at least three months) and not paying any contribution towards MIQ costs. This does not align with either the primary or the secondary objectives of the MIQ fees regime.

Option 2 (preferred)

The nature of travel has continually shifted since the beginning of the global pandemic and as countries around the world implement measures against the spread of COVID-19, including restricting entry at the border. Travelling has become, for many people, a significant commitment. We consider that the MIQ fees regime should reflect current realities and doubling the period of time to be liable to pay an MIQ fee reflects this changing nature of international travel.

Assuming 3% of New Zealanders would become liable for the standard fee for the first time, this could translate to around \$3 million in costs recovered over the course of six months. It is possible that the changes to the liability period would act as a disincentive to New Zealanders, encouraging them to either stay in New Zealand longer (i.e. over 6 months) or permanently would bring the system closer to alignment with its objectives. New Zealanders staying for longer than six months would be more likely than short-term travellers to be working in New Zealand and engaging more significantly with the community and economy.

How do the proposed options align with the criteria of cost recovery as set out in the Act?

There are a number of different combinations that could be used to set the level of MIQ fees. The fee of \$2,696 + GST was agreed by Cabinet in July 2020. The higher fee of \$4,800 + GST was agreed in December 2020 for critical workers only, reflecting the economic benefit of these workers to their employers. The approaches used to calculate both of these fees are consistent with the method requirements set out in Section 32D of the Act. In particular, the proposed fee amounts in the Regulations:

⁸ The fee regime came into force on 11 August 2020; 180 days from that point was 6 February 2021, so until recently this data was unable to be collected

- are fixed charges based on the estimated actual and reasonable cost of MIQ (aligns with Section 32D(1)(a) and 32D(1)(b) of the Act);
- are determined by calculations that involve an averaging of costs (Section 32(D)(2)(a));
- are amounts that have already been charged to a number of travellers since August 2020 and January 2021 respectively.

3.3 What is the preferred approach?

Based on the analysis above, the preferred package of options is to:

1. Make temporary visa holders who were previously ordinarily resident liable for MIQ fees.
2. Make all temporary visa holders (excluding critical health workers and air and maritime crew) liable for higher MIQ fees.
3. Make New Zealanders who leave the country between 90 and 180 days after their arrival liable for standard MIQ fees.

What other options have not been considered and why?

1. We could charge student visa holders for MIQ through the Immigration Instructions

In the absence of regulatory changes, students could be made liable for MIQ charges by amending Immigration Instructions to make it a visa condition. If a student does not comply with the visa condition, the fee becomes a debt recoverable to the Crown under the Immigration Act 2009.

The Immigration Instructions, however, could not be used to increase the fees charged for MIQ. These changes could still be pursued alongside the regulatory change but it would be complimentary to the proposed regulations requiring employers or sponsoring agencies to meet the costs of MIQ via the fees regime.

2. We could likely charge temporary visa holders higher fees to recover the full costs of MIQ

With more time, there may be an opportunity to work through all possible options for establishing a fee amount to charge temporary visa holders. For example, the proposed fee is only based on MBIE-related costs and does not include Health costs or costs for other services provided by partner MIQ agencies, such as AvSec, Defence and Police. As such, the average weighted cost still includes a degree of subsidisation by the Government. Identifying the costs beyond MBIE for MIQ would allow us to identify a fuller range of options for setting a fee for the proposal.

Identifying all costs of MIQ is a complex task, and there has not been sufficient time to undertake it. MBIE is conducting a broader fees review over the next quarter, and this could be considered as part of the fees review.

3. We could charge all New Zealanders MIQ fees

New Zealanders have a right to return to the country and there are strong social benefits to allowing them to return. Making all New Zealanders liable for fees, regardless of how long they

are in the country, could be seen as an unlawful limitation on their right to enter New Zealand under NZBORA. The limitation on New Zealanders' NZBORA rights caused by the MIQ system and fees regime has thus far been justified on public health grounds and mitigated by allowances in the fees regime for eligible New Zealanders to be exempt from paying fees. However, imposing fees on all New Zealanders would remove that mitigation.

The current fees review will examine the structure of the MIQ fees regime and whether to introduce fee liability for all travellers to New Zealand. It will allow officials the time to conduct more in-depth policy analysis of who should be eligible for fees than is possible in this Impact Assessment.

4. We could reduce fee levels or eliminate fees

This would not align with the objectives of the MIQ system outlined at 2.4 nor the MIQ fees regime criteria at 3.1. While the removal of a financial barrier could make it easier for New Zealanders to travel home, it also removes a disincentive for discretionary or short-term travel, which could make it more difficult for New Zealanders who need to travel back to New Zealand on a permanent basis to access MIQ.

Section 4: Impact Analysis

4.1 Marginal impact: How does the proposed approach identified in section 3.1 compare with taking no action under each of the criteria set out in section 3.2?

Table 3: Impact analysis summary table

	Status quo	Implement new regulatory changes
Fee certainty	0 not changing the fees regime provides greater certainty for system users	0 the change will create initial uncertainty but simplify the system overall by making all temporary visa holders liable for fees
Rights of New Zealanders	0 New Zealanders can travel to New Zealand	+ reducing short-term travel may make it easier for New Zealanders trying to return permanently home to access MIQ
Accurately recover costs	0 some temporary visa holders are not charged fees; those that are, are not charged fees that reflect the cost of MIQ	++ the new fees regime will not over-recover, and the under-recovery is reduced
Simple and pragmatic	0 determining who qualified as previously ordinarily resident is bureaucratic and risks operational error.	+ a more consistent approach is applied to temporary visa holders. It is easy to administer and reduces the risk of operational error 0 there is no change to the administration of the scheme for New Zealanders, whose liability for fees is determined by self-declaration
Overall assessment	0 The existing fees regime does not adequately meet criteria	++ the proposed changes to the fees regime represent a significant improvement over the status quo

Key:

- ++ much better than doing nothing/the status quo
- + better than doing nothing/the status quo
- 0 about the same as doing nothing/the status quo
- worse than doing nothing/the status quo
- much worse than doing nothing/the status quo

4.2 Benefits and Costs of the proposed approach

Key messages

- Commercial Information
- [Redacted]
- Increasing fee levels for temporary visa holders will generate more revenue to go towards recovering the costs of MIQ than the status quo.
- Making New Zealanders who leave the country between 90 and 180 days after arrival liable for fees will generate more revenue than the status quo.
- The proposed approach will generate around \$1.12 million more in revenue a month than the status quo – this is approximately \$6.74 million over six months.

The key benefits of the proposed approach are set out in the table below.

Table 4: Summary of costs and benefits – charging the higher fee for temporary visa holders

Benefits	Description / Measure
Cost recovery	Recovers a higher degree of MIQ cost than previously
User pays principle	Reduces the burden on the taxpayer, supports social licence to operate
Applies a consistent fees regime to temporary visa holders	Removes an administration cost
Costs	Description / Measure
Fees regime	May be perceived as unfair since temporary visa holders previously ordinarily resident who have already travelled to New Zealand were not charged
Labour market	Possible impact on skilled migration and income of tertiary institutions

Table 5: Summary of costs and benefits – extending the liability period for New Zealanders from 90 to 180 days

Benefits	Description / Measure
Cost recovery	Recovers part of the cost of individuals' travel
User pays principle	People travelling to New Zealand for short-term travel are responsible for the cost of their travel
Costs	
Fees regime	There is no current easy way to verify whether New Zealanders are liable for fees
Human rights impact	Imposing additional costs on New Zealanders could be seen to violate BORA and the Treaty of Waitangi

Monetised benefits

Temporary visa holders

The proposed approach (assuming a 1.35 room occupancy rate) of increasing fees paid by temporary visa holders from \$2,696 + GST to \$4,800 + GST is expected to generate more revenue than the status quo. The monthly and six-month forecast of revenue comparing the proposed approach and status quo is highlighted below. The proposed changes will go part of the way towards ensuring that the costs of MIQ are borne by the activities that generate those costs.

New Zealanders

The proposed approach involves making New Zealanders who leave the country between 90 and 180 days after arrival liable for MIQ fees of \$2,696 + GST and is expected to generate more revenue than the status quo. The monthly and six-month forecast of revenue comparing the proposed approach and status quo is highlighted below.

Key assumptions (full list of assumptions outlined in Table xx at annex)

- 3% of New Zealanders will leave New Zealand between 90 and 180 days after arrival.
- 78% of New Zealanders and 1% of temporary visa holders will receive fee waivers.
- The temporary visa holders are charged on the following basis:
 - \$4,800 + GST for the first occupant of a room,
 - \$2,600 + GST for the second adult; and
 - \$1,400 + GST for a dependent child three years and older
- The New Zealanders are charged on the following basis:
 - \$2,696 + GST for the first occupant of a room,
 - \$826 + GST for the second adult; and
 - \$413 + GST for a dependent child three years and older

Forecast for MBIE-related MIQ cost and revenue generated through fees system

- Commercial Information



-
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- The proposed approach will generate approximately an additional \$10.6 million than the status quo over a six-month period.
- The current fees regime recovers approximately 21% of the costs of MIQ. The proposed changes will increase cost recovery to around 23%.

Economic impacts of the proposed approach

Making international students, as temporary visa holders previously ordinarily resident, liable for fees may have an economic impact on tertiary institutions, many of whom are under existing financial pressure as a result of COVID-19. It is possible that fewer international students will return to New Zealand as a result of the higher fee, however MBIE does not see this as a significant risk. We do not expect that the additional \$2,150 (including GST) that students will be liable to pay poses a significant financial barrier that they would decide not to enter the country and undertake their studies here.

Only around 3% of returning New Zealanders are likely to be captured by the change to extend fee liability from 90 days to 180 days for New Zealanders, all of whom will be eligible to apply for fee waivers. No significant economic impact is expected from the change to fee liability for New Zealanders.

Non-monetised benefits of the proposed approach

The primary non-monetary benefit of the proposed approach is that it will fulfil Cabinet's policy intent of ensuring that the costs of the MIQ system are shared fairly by the people who benefit from it, noting that it is appropriate for the Crown to cover a portion of the costs given the benefits to all New Zealanders of preventing the spread of COVID-19. It acknowledges the difference in situations for New Zealanders who have a right to travel here and temporary visa holders who come here for economic benefits.

Changing the fee liability period for New Zealanders may serve to disincentivise short-term travel, which is a stated objective of the MIQ fees regime. It may also help to maintain the social licence that is key to New Zealand's COVID-19 strategy by demonstrating to the general public that MIQ designed to support necessary travel, not discretionary visits.

The primary benefit to a functional MIQ system is the benefit to all of New Zealand's communities in not being affected by community transmission of COVID-19. A robust and partially self-supporting system is necessary to achieve this.

Risks of the proposed approach

Risk of deterrence

It is possible that the increase in fees for temporary visa holders will deter some people from coming to New Zealand, especially students and work visa holders. As discussed above, this is not viewed as a significant risk. Over the course of the last year, travel costs have become more expensive across the board, from flights to insurance. An MIQ fee is part of the cost of international travel and for international travellers, the cost of moving to a (largely) COVID-free country.

Issue of parity and fairness between people who have already travelled to New Zealand) and people who have not been able to come yet


Due to high MIQ demand, it is possible that some temporary visa holders have been attempting to enter New Zealand since 2020. They will face increased fees not because they have waited to return to New Zealand but because there was no capacity for them to come earlier.

For international students, 50 (of a cohort of 250) PhD students have arrived already and have been charged either the lower MIQ fee or no fee at all. As of 25 March 2021, any PhD students yet to come and the first tranche of 1000 undergraduate and Masters students set to come from April 2021, will have to pay the higher fee.

Disparity of critical health workers and air and maritime crew being charged less

There is a risk that introducing higher MIQ fees for all temporary visa holders except for critical health workers and air and maritime crew creates an inconsistent fees system. However, the rationale for charging health workers a lower fee is linked to the necessity of a strong COVID-19 response. District Health Boards and medical associations have expressed concerns that increased fees for critical health workers could pose a barrier to international recruitment. New Zealand's health system is highly dependent on international workers, and the additional challenges of providing health support for MIQ and New Zealand's vaccination campaign mean that having a fully staffed health workforce is very important.

Confidential advice to Government



Waiver of 28-day rule for temporary visa holder changes

It is a requirement of Cabinet that regulations must not come into force until at least 28 days after they have been notified in the New Zealand Gazette. The 28-day rule reflects the principle that the law should be publicly available and capable of being ascertained before it comes into force.

A waiver of the 28-day rule is sought so the proposed Regulations that apply to temporary visa holders can come into force on 25 March 2021. The purpose of the Amendment Regulations is to recover closer to the actual costs of MIQ from temporary visa holders, including the international students due to arrive from April 2021 – responding to Ministers' intention that they are liable to pay. The majority of temporary visa holders to whom this would be applicable entering the country in the next few months will be international students. Waiving the 28 day rule is necessary to ensure the new fee settings are in place for undergraduate and Masters students.

A waiver of the 28-day rule is not sought for the proposed Regulations that affect New Zealanders. The change to fee liability period for New Zealanders from 90 days to 180 days will be implemented from 1 June 2021, therefore a waiver of the 28-day rule is not necessary.

Risks of not making the proposed changes

The costs associated with operating the MIQ system are high. The proposed changes will make a small contribution to increasing the sustainability of the MIQ system. This will assist the Government's finances and support the economic recovery. These benefits will be lost if the fees increase does not occur.

The Government's approach to managing COVID-19 has relied strongly on a social licence to operate. Not requiring cost recovery for non-New Zealanders who use the MIQ system carries the risk of undermining public acceptance of the COVID-19 response. MBIE considers that ensuring consistency in which temporary visa holders are liable for fees will improve the optics of the COVID-19 response.

The same rationale applies to New Zealanders who are seen to be 'playing the system' by leaving the country after 90 days to avoid paying fees. The demand for MIQ has been consistently high since December 2020 and many people are trying to come home for a number of personal reasons. Without refinement to the liability period, there is a risk of the Government not being seen to care about keeping MIQ primarily as a system for ensuring New Zealanders can come home. Fewer New Zealanders using the MIQ system for short-term travel mitigates some of the NZBORA risk of an MIQ system by increasing the possibility of entry for New Zealanders trying to move home on a permanent basis.

Section 5: Implementation and operation

5.1 How will the new arrangements work in practice?

The preferred option will be given effect through amendments to the COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Regulations 2020.

The proposed Regulations relating to temporary visa holders will come into force on 25 March 2021. The proposed Regulations relating to New Zealanders will come into force on 1 June 2021.

Consultation and stakeholder views

Relevant Government agencies have been informed of the proposed changes to the fees Regulations, however, consultation with Government agencies on the specific proposals was limited. The primary agencies engaged in the impact of the proposals were the Ministry of Education due to the effect of fees changes on the tertiary education sector, and the Ministry of Transport, due to the potential effect of fee changes on air and maritime crew.

Communications

The increase in the MIQ fee for temporary visa holders was communicated on 2 March 2021 by press release. The MIQ and INZ websites have been updated to reflect the changes coming into effect on 25 March 2021. Further communications with those affected, including New Zealanders, will proceed when the Regulations are approved by Cabinet in March.

Communications went out to temporary visa holders before the Regulations were made in order to give travellers the maximum possible amount of time to prepare. Due to the compressed timeframes under which this regulatory change has happened, this is around three weeks' notice. New Zealanders will have adequate time to prepare for changes that affect them, as changes to New Zealanders' liability are not implemented until 1 June 2021.


Implementation of changes

MBIE administers the Regulations and has responsibility for implementing the fees regime. A fees regime has been operating since August 2020 and implementation of these changes will be straightforward as it is not a matter of creating new processes, but updating existing ones.

The implementation of these changes will be aided by an update to MIAS due at the end of March 2021, which will add the ability to differentiate between New Zealanders and temporary visa holders for the first time.

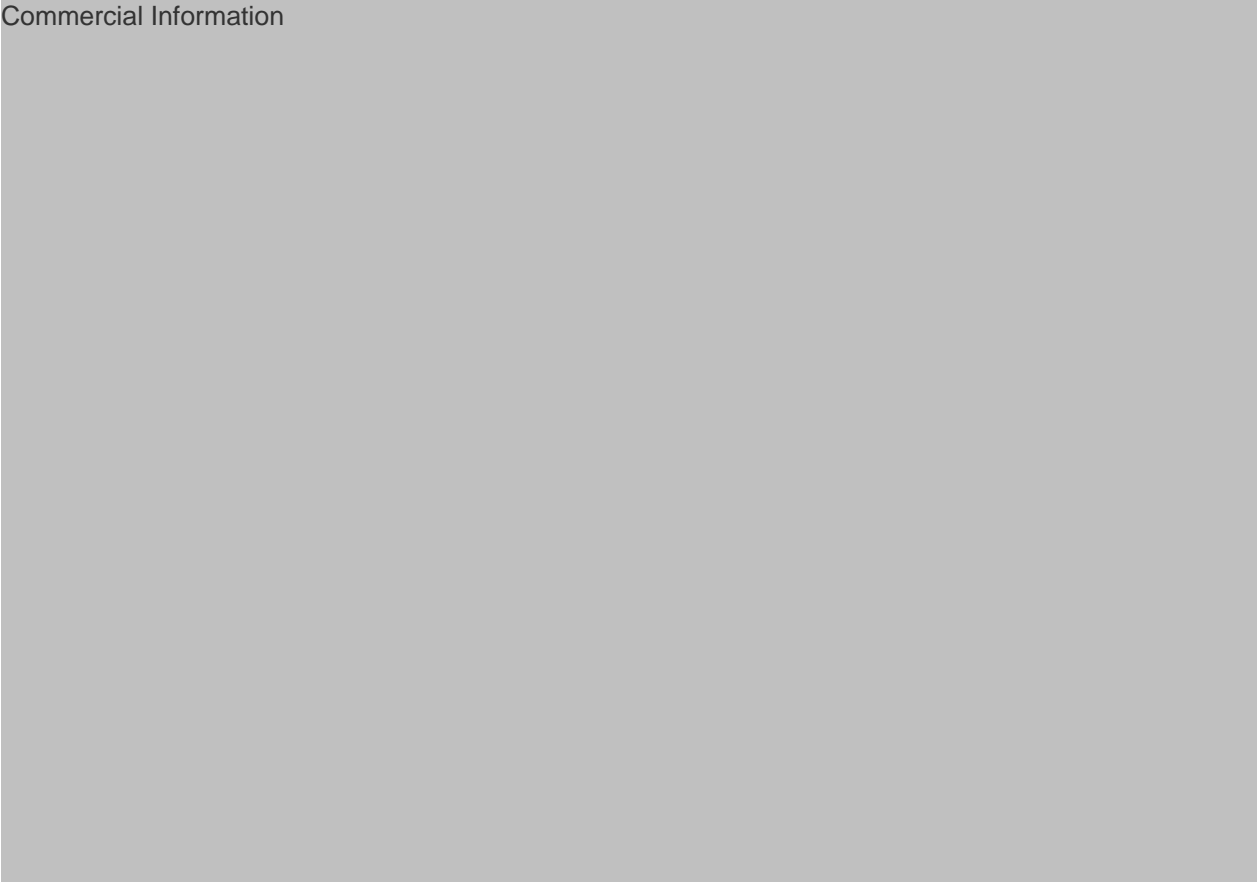
Section 6: Monitoring, evaluation and review

Confidential advice to Government



Annex

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Table 8: Underlying assumptions for forecast revenue of MIQ fees system

Key underlying assumptions	Comments
<p>Occupancy rate The standard occupation rate of MIQ is 90%. (note the occupation rate for rooms reserved for operational and cleaning purposes is 25%, for quarantine and deportees is 60%)</p>	<p>The occupancy rate is the percentage of occupied rooms in MIQ at a given time. The higher the occupancy rate, the lower the cost per person (total cost/returnees) as a large proportion of MIQ running costs are fixed.</p>
<p>Packing rate The packing rate is 1.35.</p>	<p>This means, at a given time there are 1.35 people per room across MIQ.</p>
<p>Expected credit loss (ECL) The rate of expected credit loss is 30%.</p>	<p>This expected credit loss represents the estimated percentage of non-payments of the fees.</p>
<p>Concession rate The concession rate is 15.10%</p>	<p>There is no interest charged on the MIQ fee regime, and would therefore be considered "below market terms" and not at fair value. The concession rate adjusts the loan to an estimated fair value.</p>
<p>Total number of rooms in MIQ 6,199</p>	<p>The total number of rooms in MIQ is 6,199 (as at 14 February 2020). Some rooms are not used for hosting travellers but for other purposes (staff quarters, administration, contingency etc).</p>
<p>Room allocation (for returnees and workers)⁹:</p> <ul style="list-style-type: none"> • 3,213 for MIAS online – New Zealand citizens and residents • 233 for other critical workers (7.4% of critical of MIQ allocation) • 131 for critical health workers • 235 for work visa holders previously ordinarily resident • 40 for students • 250 for emergency allocation • 210 for maritime and aircrew 	<p>This is the expected allocation for different groups of returnees and critical workers across MIQ.</p> <p>Temporary visa holders have made up 20-30% of travellers into MIQ. The Government has set a target of 10% of MIAS spaces being allotted to critical workers.</p>
<p>Exemption rate</p> <ul style="list-style-type: none"> • The rate of exemption from fees for New Zealanders is 78%. • The rate of exemption for students and work visa holders previously ordinarily resident is 1%. • The rate of exemption from fees is 0% for critical workers. 	<p>The exemption rate accounts for people who are either not liable for MIQ fees or who have been granted a fee waiver. The exemption rate applies differently across the classes of people returning to New Zealand.</p>
<p>No fee Apart from those exempt from paying the MIQ fee through the exemption and/or fee</p>	<p>The Government will bear the cost of the rooms for the purposes of quarantine, housing deportees and for administrative purposes.</p>

⁹ Work is currently being undertaken to better understand how rooms are allocated on the ground, as allocations on MIAS do not always translate into accurate room usage. These numbers are provided as a best estimate at this time.

Key underlying assumptions	Comments
waiver process, the fee regime does not apply to the following ¹⁰ : <ul style="list-style-type: none"> • people required to quarantine from the community • deportees returning to New Zealand • rooms used for administrative purposes 	

¹⁰ This list is not exhaustive; see the COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Regulations 2020 for further detail.