



BRIEFING

Commencement of fees provision in the COVID-19 Amendment Act

Date:	14 December 2021	Priority:	Medium
Security classification:		Tracking number:	2122-2188

Action sought		
	Action sought	Deadline
Hon Chris Hipkins Minister for COVID-19 Response	<p>Note that the COVID-19 Public Health Response Amendment Act (No 2) 2021 includes one still to be enacted provision relating to MIQ fees;</p> <p>Note that this provision only comes into force on a date appointed by the Governor-General by Order in Council, so as to align with the introduction of Amendment Regulations which give effect to this provision;</p> <p>Agree that the fees provision in the Amendment Act, and Amendment Regulations, come into effect on 10 February 2022,</p> <p>Agree to issue drafting instructions to PCO to prepare the Commencement Order to give effect to this.</p>	17 December 2021

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

The following departments/agencies have been consulted

Minister's office to complete:

- | | |
|---|--|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Declined |
| <input type="checkbox"/> Noted | <input type="checkbox"/> Needs change |
| <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn |

Comments



BRIEFING

Commencement of fees provision in the COVID-19 Amendment Act

Date:	14 December 2021	Priority:	High
Security classification:		Tracking number:	2122-2188

Purpose

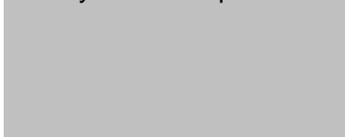
This briefing seeks agreement to the commencement date of the Managed Isolation and Quarantine (MIQ) fees provision in the COVID-19 Public Health Response Amendment Act 2021, and the issuing of drafting instructions to PCO for the Commencement Order.

Recommended action

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

- a **Note** that the COVID-19 Public Health Response Amendment Act (No 2) 2021 which achieved Royal Assent on 20 November 2021, includes one still to be enacted provision relating to MIQ charges; *Noted*
- b **Note** that this provision only comes into force on a date appointed by the Governor-General by Order in Council, so as to align with the introduction of Amendment Regulations which give effect to this provision; *Noted*
- c **Note** that drafting of the Amendment Regulations is underway, and we anticipate that the LEG paper and Amendment Regulations will be ready for consideration by CBC on 1 February 2022, Cabinet on 8 February 2022 and gazetting on 10 February 2022; *Noted*
- d **Note** that SWC authorised you to make policy decisions that arise during the Amendment Act drafting process, consistent with the policy intentions agreed [SWC-21-MIN-0067]; *Noted*
- e **Agree** that the fees provision in the Amendment Act comes into effect on 10 February 2022, to align with the Amendment Regulations; Agree / Disagree
- f **Agree** to issue drafting instructions to PCO to prepare a Commencement Order giving effect to recommendation (e) above; and Agree / Disagree
- g **Agree** to proactively release this briefing with any withholdings consistent with the Official Information Act 1982. Agree / Disagree

Privacy of natural persons



Policy Manager
MIQ, MBIE

14/ 12 / 2021

Hon Chris Hipkins
Minister for COVID-19 Response

20 / 12 / 2021

Background

1. The COVID-19 Public Health Response Amendment Act (No 2) 2021 (the Amendment Act) achieved Royal Assent on 20 November 2021.
2. The Amendment Act includes one still to be enacted section relating to Managed Isolation and Quarantine (MIQ) charges, which does the following:
 - reverses the starting point for MIQ charges, meaning everyone who enters MIQ is liable to pay fees by default, unless they are exempt in the COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Regulations 2020 (the Regulations);¹
 - shifts the MIQ fees exemptions for diplomats and their families from the Act into Regulations so all exemptions can be found in one place.
3. Section 18 only comes into force on a date appointed by the Governor-General by Order in Council, so as to align with the introduction of Amendment Regulations consistent with the new fee liability starting point. It is critical that the Amendment Regulations and Commencement Order progress in sync, because one coming into force without the other would effectively render the fees Regulations no longer functional.
4. Usually, a commencement decision would need to go to Cabinet for agreement, however when considering the Amendment Bill on 12 May 2021, the Social Wellbeing Committee (SWC) authorised you to make any necessary policy decisions that may arise during the drafting process, consistent with the policy intentions agreed [SWC-21-MIN-0067 refers].
5. On that basis, this briefing seeks your agreement to a commencement date for Section 18 of the Amendment Act, and the issuing of drafting instructions to PCO for the Commencement Order.

We propose that the new fees provisions and Regulations come into effect on 10 February 2022

6. Cabinet has already made policy decisions on the changes to the Regulations required to give effect to the new fee liability starting point in the Amendment Act [CBC-21-MIN-0104]. On 15 September 2021, Cabinet Business Committee (CBC):
 - agreed to amend the Regulations so that New Zealand citizens and residents who left New Zealand before 11 August 2020 and who are visiting for more than 180 days are added to the list of groups who are exempt from MIQ charges, so that current fee liability settings are maintained when the liability starting point is reversed (so that people are liable for MIQ charges unless exempt) as part of the of the changes proposed in the COVID-19 Public Health Response Amendment Bill; and
 - noted that, in order to ensure that the current charges liability settings for foreign diplomats and their families are maintained after the exemption from MIQ fees for diplomats is removed from the COVID-19 Public Health Response Act 2020 as part of the COVID-19 Public Health Response Amendment Bill, the Regulations will need to be amended to include this exemption.

¹ Prior to this change, for MIQ charges to be payable, a person had to fall into one of the categories set in the Regulations. If they were not a person described in the Regulations, then they were not liable for fees. This change will reduce the need to update the Regulations each time the settings of our border change and allow new groups into the country.

7. Drafting of the Amendment Regulations is underway, and we anticipate that the LEG paper and Amendment Regulations will be ready for consideration by CBC on 1 February 2022 and Cabinet on 8 February 2022.
8. To ensure that the LEG paper, Amendment Regulations and Commencement Order progress through CBC and Cabinet together, we are seeking your agreement to a commencement date of 10 February 2022 for Section 18 of the Amendment Act, and your agreement to the issuing of drafting instructions to PCO for the Commencement Order.
9. The following key dates are proposed through to commencement:

Stage	Proposed date
Ministerial agreement to commencement date	17 December 2021
Drafting instructions for Commencement Order issued to PCO	20 December 2021
Draft Cabinet paper, Amendment Regulations and Commencement Order provided to Minister's Office	17 January 2022
Ministerial consultation on package – one week [the policy rationale for this change has already undergone extensive agency and Ministerial consultation as part of the Amendment Bill, and also as part of the Cabinet process for the recently enacted minor and technical changes to the fees Regulations]	18 January – 25 January 2022
Final Cabinet paper, Amendment Regulations and Commencement Order provided to the Minister's Office for lodgement	26 January 2022
Package lodged with Cabinet office	27 January 2022
CBC meeting	1 February 2022
Cabinet & Executive Council	8 February 2022
Publication of Regulations, Commencement Order in New Zealand Gazette and Legislative Instruments series	10 February 2022
28-day rule	Seeking waiver
Commencement	10 February 2022

Waiver of 28-day rule

10. As the border begins to open next year, ensuring that our fees settings apply to everyone (with appropriate exemptions), including visa classes not envisaged when the regime was introduced in August 2022, will become even more important.
11. The LEG paper will therefore seek a waiver of the 28-day rule on the grounds that it is necessary to have the new liability starting point in place before the border reopening gains traction.
12. We also view the waiver as justified given that the reversal of the starting point for fee liability is a technical change that will not have any material effect on current liability settings. Reversing the liability starting point does not change who is currently liable to pay for MIQ or how much is charged.

Next steps

13. Subject to your agreement to the commencement date proposed in this paper, we will issue drafting instructions to PCO for the Commencement Order.
14. We will provide you with a package for Ministerial consultation on 17 January 2022.