

In Confidence

Office of the Minister of Housing

Cabinet Legislation Committee

COVID-19 Public Health Response Amendment Bill: Approval for Introduction

Proposal

- 1 This paper seeks approval for introduction of the COVID-19 Public Health Response Amendment Bill (the Bill) to establish a fees system for people arriving in New Zealand who are required to enter managed isolation or quarantine (MIQ).
- 2 In addition, the Bill:
 - 2.1 allows for orders to impose conditions on people before they enter New Zealand, which may include being registered to enter an MIQ facility on arrival into New Zealand,
 - 2.2 clarifies that orders made under section 11 of the principal Act can require a person to undergo medical testing or examination.

Policy

- 3 The COVID-19 Public Health Response Amendment Bill gives effect to Cabinet decisions to collect fees from people who enter MIQ [SWC-20-MIN-0109 refers].
- 4 In addition, I am now seeking further policy decisions from LEG on the setting of the fee, the grounds on which fees can be waived in full, and further classes of people to exempt from the fee.

Background

- 5 Protecting New Zealand communities from COVID-19 through the MIQ system is critically important, and has public health, economic and social benefits. From a public health perspective, MIQ is necessary to prevent the spread of COVID-19 in New Zealand. All arrivals to New Zealand must undertake quarantine or managed isolation for 14 days after arrival (with very limited exemptions). This protects the health and wellbeing of people in New Zealand.
- 6 The costs of MIQ are substantial and greater than initially estimated. We have a limited number of facilities for MIQ, and a limited number of staff who can be made available to manage health and security needs at MIQ facilities. Demand for MIQ has grown since the system was introduced in April 2020, to

the extent that we have had to make arrangements with airlines to manage the number of people arriving in New Zealand.

- 7 On 29 June 2020, Cabinet considered co-payment options for managed isolation and quarantine, and noted that I would undertake further work on developing a co-payment scheme [CAB-20-MIN-0317]. On 20 July 2020, Cabinet Social Wellbeing Committee (SWC) was given power to act by Cabinet in relation to the fees system [CAB-20-MIN-0344].
- 8 On 22 July 2020, SWC [SWC-20-MIN-0109 refers] agreed to:
 - 8.1 Establish a fees system to make a sustainable contribution to the costs of the MIQ system;
 - 8.2 Amend the COVID-19 Public Health Response Act 2020 (the COVID-19 Act) to establish a legal basis for an MIQ fees system;
 - 8.3 Require fees from everyone arriving in New Zealand, who is required to be isolated or quarantined in a managed facility (unless they are subject to an exemption or a waiver), and who is either:
 - 8.3.1 A temporary visa holder, or
 - 8.3.2 A New Zealand citizen or residence class visa holder, or an Australian citizen or permanent resident ordinarily resident in New Zealand, who either
 - 8.3.2.1 Departed New Zealand on or after the day legislation is introduced to the House, or
 - 8.3.2.2 Who is only visiting New Zealand on a temporary basis;¹
 - 8.4 Create a set fee system with the level of the fees set in regulations;
 - 8.5 Designate the chief executive of the Ministry of Business, Innovation and Employment (MBIE) to be responsible (on behalf of the Crown) for collecting the fees and determining the timing and method of payment;
 - 8.6 Exempt certain classes of people from the fee system and that other classes of people can be prescribed through regulations;
 - 8.7 Allow for the full or partial waiver of fees for people experiencing financial hardship on a case-by-case basis.

Why a Bill is required

- 9 A Bill is required to:

¹ This means a New Zealander who departed before the legislation is introduced, but is only visiting New Zealand on a temporary basis, would be liable to pay fees. This also means a New Zealander who leaves after the legislation is introduced, but intends to remain in New Zealand permanently after their subsequent return, would be liable to pay fees.

- 9.1 Establish a legal basis for an MIQ fees system; and
 - 9.2 On the recommendation of the Minister of Health, amend the scope of the order-making power under the COVID-19 Act to clarify that the section 11 orders can require arrivals to be registered to enter a managed isolation facility on their arrival, and be required to report for and undergo medical examination or testing.
- 10 The Bill will create a regulation-making power to allow for details of the fees system to be set out in regulations. This will provide flexibility in how the scheme is implemented and the ability to respond quickly to the changing international and domestic environment.

Timing of proposed changes

- 11 I propose to introduce the Bill to the House on 29 or 30 July 2020. New Zealanders who have departed New Zealand before 1 pm on the day of introduction will not be liable for fees on their return to New Zealand.
- 12 The Bill is then proposed to come into force on Royal assent, but people will only become liable to pay fees when the necessary regulations to set fees come into effect. I expect this will happen on or around 11 August 2020.
- 13 Fees would therefore apply to people entering New Zealand and going into MIQ after the regulations come into force, unless they are exempt or the fees are waived. They would not be required to pay before or while in MIQ. Fees would become payable 90 days after leaving MIQ.

Amendments to the purpose of the COVID-19 Act

- 14 The Bill amends the purpose of the COVID-19 Act to clarify that:
- 14.1 the purpose of supporting a public health response includes supporting a public health response that is economically sustainable and allows for the recovery of costs in relation to MIQ facilities; and
 - 14.2 the purpose of supporting a public health response that is coordinated, orderly and proportionate and allows for social, economic and other factors to be taken into account in decision-making.
- 15 The first change in paragraph 14.1 above will make clear that the public health response to COVID-19 should also be economically sustainable and allow for the charging of fees to recover costs for MIQ.
- 16 The second change is to add that social, economic and other factors may be taken into account when making decisions under the Act.

Authority to charge MIQ fees

- 17 The Bill provides legal authority for the government to charge people arriving in New Zealand for their 14-day stay in MIQ facilities. Unless they are exempted or the fees are waived, people arriving in New Zealand from overseas, and who are required to enter MIQ (ie not exempt from MIQ

requirements), will be required to pay the MIQ fees prescribed in regulations. This provides flexibility for all arrivals to be charged or a sub-set of arrivals to be charged.

- 18 The Bill inserts a new subpart into the COVID-19 Act on cost recovery to enable key features of the MIQ fees system.
- 19 The Bill allows the Minister with responsibility for MIQ facilities to prescribe fees in regulations. The Minister must first be satisfied:
 - 19.1 The fees recover no more than an estimate of the actual and reasonable MIQ costs, including direct and indirect costs;
 - 19.2 There is appropriate provision to grant relief from payment of fees in circumstances where payment would cause undue financial hardship; and
 - 19.3 The fees are a justified limit on rights and freedoms in the New Zealand Bill of Rights Act 1990.
- 20 The Bill provides for a range of ways to calculate fees and for different fees to be set for different classes of person, types of facilities and different locations. This reflects that there is significant variation in the cost of providing MIQ.

Exemptions from the requirement to pay fees

- 21 The Bill sets out the following classes of people who will be exempt from MIQ fees:
 - 21.1 Foreign diplomatic and consular personal (defined as persons eligible to hold a New Zealand diplomatic, consular or official visa, including recognised family members) who agree to enter MIQ.
 - 21.2 Officials of foreign governments conducting business with Ministers or government departments or transiting through New Zealand on official government-to-government business.
 - 21.3 Holders of diplomatic or other official passports who are entering or transiting through New Zealand on embassy or consulate business or en route or returning to a diplomatic posting.
- 22 The Bill allows me to recommend other classes of people who should be exempt through regulations, for example the people specified in paragraphs 8 and 29, where they are not already mentioned in paragraph 21 above (which described the people exempt in the Bill). This will provide flexibility to respond to a changing environment without requiring amendments to the primary legislation. Regulations will also specify that the following people will be exempt from fees [SWC-20-MIN-0109 refers]:
 - 22.1 those travelling to attend the sentencing of the accused in the Christchurch mosque attacks will be exempt from fees;

- 22.2 refugees, protected persons and applicants under the special category for victims of family violence.

Waivers, refunds and payment arrangements

- 23 The MIQ fee may be a significant financial outlay for individuals and families, particularly if they are experiencing job loss or financial hardship. Additionally, the fee may constitute a barrier to New Zealanders wanting to exercise their right to return under the Bill of Rights Act.
- 24 The Bill will allow regulations prescribing how the chief executive of MBIE or I may waive or refund fees in full or in part in cases of financial hardship. Details on how this process will work are set out in paragraphs 41 – 44 below.
- 25 The Bill will also allow for regulations prescribing that the manner of payments may include payment by instalments.

Amendments to facilitate the managed isolation allocation system

- 26 On 1 July 2020, Cabinet agreed to introduce a requirement that all arrivals to New Zealand must have a pre-booked place in a MIQ facility [SWC-20-MIN-0094 refers]. An amendment is proposed to the COVID-19 Act to provide a clear legal basis for the Minister of Health to make an order under section 11 to place requirements on people before they enter New Zealand, including being registered to enter an MIQ facility on arrival. The current scope of the Act may allow for an order to this effect, however it is preferable that the Act is as clear as possible, given the potential infringement on the right of NZ citizens to return to New Zealand.

Amendments relating to testing

- 27 Amendments are proposed to the provisions of the COVID-19 Act relating to testing to ensure that it is clear that a person can be required to submit to testing and examination. Currently, section 11 states that a person can be required to "report for medical examination or testing." This does not clearly require a person to actually submit to testing. The proposed amendment would strengthen the wording in the COVID-19 Act so it is clear that a person can be required to report for and submit to testing under the Act.

Further policy decisions for the Bill

- 28 I was authorised by SWC, in consultation with the Minister of Health, the Minister of Justice and the Attorney-General, to make decisions on any matters, consistent with the policy proposals that may arise during the drafting process.
- 29 Following consultation with the Minister of Health, the Minister of Justice and the Attorney-General, I recommend the following:

29.1 Temporary visa holders should be exempt if they:

- 29.1.1 As of 19 March 2020, had been ordinarily resident in New Zealand in the prior 12 months, and

- 29.1.2 Departed New Zealand on or before 19 March 2020, and
- 29.1.3 Are not entering New Zealand on a border exception as a “critical worker” [CAB-20-MIN-0268 refers].
- 29.2 New Zealand citizens or residence class visa holders, or any Australian citizens or permanent residents who are ordinarily resident in New Zealand, should be exempt from fees if they are returning to New Zealand for at least 90 days, as a measure of whether they are not returning on a temporary basis. This length of time generally corresponds with what is considered a short-term stay or visit in the immigration system.
- 29.3 Family members (ie partners, any dependent children and legal guardians) who are isolating or travelling with someone who is exempt from paying MIQ fees, should also be exempt from fees. Exempting family members is in line with the decision that it is not appropriate to charge fees for exempt classes and will be easier to administer.
- 29.4 Fees will start to apply when the associated regulations come into force (this is intended to be 11 August 2020 but could change). Given other measures have been taken to cap the number of people who can fly to New Zealand in the near future, it will not be necessary for charges to apply retrospectively to prevent a surge on travel to New Zealand. This does mean that a person could depart New Zealand after the Bill is introduced, and return before the fee regulations are in force, and avoid liability for a fee. There may be a small number of people in this situation, but I consider this acceptable given the alternative option is to make fees retrospective.
- 29.5 The Public Finance Act 1989 imposes limits on Crown lending, and provides that the Crown must not lend money unless expressly authorised by an Act. Lending money under the Public Finance Act includes deferring payment for any services supplied, but does not include supplying services on credit for a period of less than 90 days or less from the date the credit is supplied. Regulations made under the Bill will allow for flexibility in relation to the time and manner of payment of MIQ costs, including instalments over a specified period of time. To allow for this flexibility in the time and manner of payment, I propose that Cabinet agree that the Crown can lend money for the purposes of administering and managing MIQ facilities.

Proposed approach to regulations

- 30 Below is my proposed approach to regulations for the MIQ fees system, on which I seek your agreement in principle subject to further consultation. Over the next week, I intend to undertake targeted consultation on the draft regulations (eg with the New Zealand Law Society, the Human Rights Commission and appropriate stakeholders to reflect the Treaty partnership), before seeking Cabinet approval of the regulations.

- 31 Annex 1 shows how I envision the primary and secondary legislation for MIQ fees to relate to each other, and be operationalised by MBIE. Annex 2 shows who will be liable to or exempt from fees, subject to decisions on this paper.

Level of fees

- 32 The fees for MIQ will be set through regulations. SWC agreed that the fees should not exceed the accommodation, food and ancillary services components of average MIQ costs, and should not include any public services provided as part of MIQ [SWC-20-MIN-0109 refers].
- 33 I am seeking your agreement to the level of the fees now so the proposed fees can be announced when the legislation is introduced. This will give people as much advance notice of the fees as possible, and allow them to make preparations accordingly. There is a risk that there could be confusion if the fees change following consultation, which will be managed through clear communications.
- 34 I propose the following fee structure:
- 34.1 \$3,100 (incl GST) for one person in a room;
- 34.2 \$950 (incl GST) for each additional adult in that room;
- 34.3 \$475 (incl GST) for each additional child in that room.
- 35 The fee for one person in a room is set lower than the food and accommodation components for the lowest cost MIQ facility. The additional fees are below the lowest food costs.
- 36 The child rate would apply for children over 3 years old and under 18 years (at the time of check-in). There would not be a fee for children under 3 years.
- 37 For a single person in a room, the fee of \$3,100 represents 44% of the total MIQ costs. For a family of four (two adults and two children) sharing two rooms, the fee of \$7,150 represents approximately 40% of the total MIQ costs. I consider that a contribution less than half of the total cost would be a fair share for travellers to contribute, with the rest funded by the Government.
- 38 These rates would apply to a standard 14 day-stay. Longer stays (for example people who test positive and enter quarantine) would not be charged more than the standard fee. For shorter stays (for example for transiting passengers, if the period for MIQ is reduced for some arrivals, or if the person is transferred to hospital) the payment could be charged on a pro-rata basis. Initially, payments will not be due before a person's MIQ stay ends. This could change in future, such as to charge temporary visa holders before they enter New Zealand.
- 39 There is a significant range of accommodation/food costs across MIQ facilities (ie from around ^{s 9(2)(i)} t, including GST, as at 1 July 2020). At SWC, I indicated the fee may be set at \$3,500, however, this fee would then be above the lowest MIQ costs.

- 40 New South Wales has adopted a similar fee structure to the one I propose. In NSW, fees are set at AU\$3,000 for an adult, AU\$1,000 for additional adults and AU\$500 for additional children (3 years and over).

Waiver of fees

- 41 Many people returning to New Zealand (even temporarily) will already be financially distressed and concerned about the financial impact of having to pay MIQ fees. To help address these concerns, the chief executive of MBIE will be able to agree for the fees to be paid by instalment, the size and timing of the payments will depend on the individual's circumstances and operational guidelines. Interest would not be charged on instalment payments (although the Bill allows for this). Instalment payments would help people who may be able to financially afford the MIQ fees, but are unable to pay the fees in one upfront payment.
- 42 The chief executive of MBIE will also be able to waive the fees in full or in part, and the regulations will provide for waivers in cases of undue financial hardship.
- 43 I am proposing that the regulations would allow for fees to be waived in full if an applicant's cash assets are below \$8,000 for a single person and \$16,000 for a couple or sole parent.² The chief executive would be able to waive MIQ fees in full or in part if they consider that undue financial hardship will be caused by the payment of the charges, or in any circumstances for which they consider a full/partial waiver to be appropriate, for example if someone has been rescued at sea. I expect guidance about the use of this discretion to be made available on MBIE's website.
- 44 An application for a waiver should be made before the payment becomes due (eg 90 days after they leave MIQ). People would have recourse to the Ombudsman, and can seek review of the chief executive's decisions. They will be informed of this right.

Impact analysis

- 45 Cabinet's Impact Analysis requirements apply to the proposals. The proposals in the paper relate to the government's response to the COVID-19 outbreak, but do not qualify for an exemption as they are not urgently required to be effective. As no Regulatory Impact Statement has been provided, the Cabinet's Impact Analysis rules require preparation of a Supplementary Analysis Report.
- 46 The introduction of co-payments is part of a broader set of proposals on the management of New Zealand's borders during the COVID-19 pandemic that are being proposed and assessed separately. A fragmented impact assessment of these proposals limits the understanding of their interactions and potential alternatives and may create unintended consequences. The Treasury recommends that the Supplementary Analysis Report is integrated

² As sole parents are likely to have higher costs than a single person.

into a more comprehensive analysis of the suite of border management proposals.

Compliance

47 The Bill complies with each of the following:

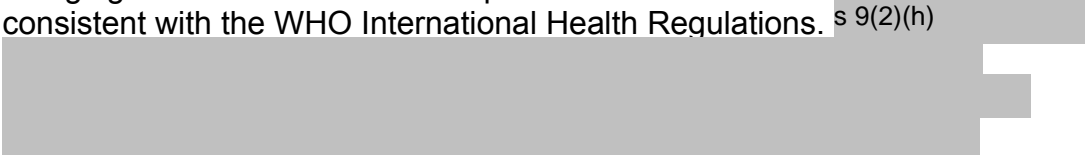
47.1 the disclosure statement requirements;

47.2 the principles and guidelines set out in the Privacy Act 1993;

47.3 LDAC guidelines.³

International obligations

48 As noted in the SWC paper [SWC-20-MIN-0109 refers], there is a risk that charging short-term travellers for quarantine and isolation may not be consistent with the WHO International Health Regulations. s 9(2)(h)



Principles of the Treaty of Waitangi

49 There may be an argument that the Bill does not meet Treaty of Waitangi obligations as it impedes the access of Māori to New Zealand. Inhibited or delayed access of Māori to New Zealand may negatively impact the ability of Māori to exercise tino rangatiratanga and kaitiakitanga rights and responsibilities.

50 Closely related to the Treaty of Waitangi and human rights implications are potential implications under the United Declarations on the Rights of Indigenous Peoples (UNDRIP). Article 36 protects the right of indigenous peoples to maintain and develop relationships and contacts with members of their community, and other communities, within or outside their country. This includes activities and relations for spiritual, cultural, political, economic and social purposes.

51 There are a significant number of Māori living in Australia. Māori who return temporarily to New Zealand, for example for tangi or visiting whanau, would face increased travel expenses in order to fulfil their responsibilities. A fees system may prevent, delay or otherwise inhibit the ability of Māori to maintain and develop relationships across the New Zealand border.

52 I consider that not requiring payment ahead of travel, the proposed ability to pay through instalments or to have fees waived in certain circumstances means that the fees system does not create a significant barrier to Māori temporarily returning to New Zealand. Māori who return permanently to New Zealand would not be required to pay MIQ fees.

³ The Bill allows fees to be charged to people departing New Zealand or staying in an MIQ after introduction, which could be considered retrospective. However, the approach to fee regulations outlined in this paper is that fee liability will not arise prior to the regulations coming into force.

New Zealand Bill of Rights Act 1990 and human rights implications

- 53 The cost recovery provisions of the Bill engage section 18 of the New Zealand Bill of Rights Act 1990, which establishes the freedom of movement of New Zealand citizens, including the right to enter New Zealand and the right to leave New Zealand.
- 54 Imposing a significant cost on returning New Zealand citizens, or otherwise preventing their return (for example through an allocation system) could be found to be an unlawful limitation on their right to enter New Zealand.
- 55 People will not be required to pay prior to travel. The fees will not become due until after the person has completed their stay in MIQ. In addition, the Bill provides for exemptions for certain classes of people, waiver of fees where there is undue financial hardship, and payment by instalments where a person is unable to pay up-front.
- 56 The proposed amount of the fee represents less than half of the average total MIQ costs. The single person fee is set lower than the food and accommodation components for the lowest cost MIQ facility. The additional fees are lower than the lowest food costs. This means nobody who is liable to a fee should be paying more than their actual and reasonable costs.
- 57 I consider that the proposed approach to a fee system for MIQ is a justified and proportionate limitation on rights necessary to achieve the policy objective of a financially sustainable public health response (including MIQ), noting that this determination is ultimately one for the Attorney-General to make when the legislation is introduced. However, due to the changing nature of the COVID-19 pandemic, all aspects of the MIQ system will be kept under regular review to ensure it is proportionate and necessary. This includes the fees system as well as other border measures (ie the allocation system).
- 58 The Bill provides sufficient flexibility for changes to the key settings (ie fees, exemptions, and waivers) to be made through regulations to respond to the evolving situation.
- 59 The Bill also replaces the wording of the current section 11(1)(a)(viii) to clarify that a person can be required to submit to medical examination and testing. This engages the BORA right to be free from unreasonable search and seizure (section 21). A COVID-19 test requires the collection of a bodily sample for a person for diagnosis and assessment. This can include the use of a moderately-invasive procedure, a nasopharyngeal swap to collect nasal secretions from the back of the nose and throat.
- 60 The purpose of this provision is to ensure that appropriate public health controls can be applied in respect of people who may have COVID-19, and also that public health authorities can collect information about potentially unknown vectors of transmission in the community. The purpose is to protect against future outbreaks of COVID-19.
- 61 I have been advised the Minister of Health considers the proposed approach to testing is a justified limitation on BORA rights necessary for the response to

public health risks faced by New Zealand from an outbreak or spread of an outbreak of COVID-19 noting that this determination is ultimately one for the Attorney-General to make when the legislation is introduced. However, due to the changing nature of the COVID-19 pandemic, all aspects of the testing strategy will be kept under regular review to ensure it is proportionate and necessary. The testing strategy is subject to regular review and consulted on by the Epidemiology Technical Advisory Group.

Consultation

- 62 The following agencies were consulted: Ministry of Health, Department of Prime Minister and the Cabinet (Policy Advisory Group), DPMC (COVID-19 AOG Response), Crown Law, Ministry of Justice, Parliamentary Counsel Office, Treasury, Ministry of Transport, Ministry of Foreign Affairs and Trade, Customs, Operations Command Centre, Te Puni Kōkiri, Te Arawhiti, Ministry of Social Development, Inland Revenue.
- 63 Public consultation has not been possible in the time available. It is clear from media reports that there are strong views held by members of the public.

Binding on the Crown

- 64 The Bill amends the COVID-19 Public Health Response Act 2020, which is binding on the Crown.

Allocation of decision-making powers

- 65 The Bill allows for regulations to prescribe fees for MIQ costs. The Minister responsible for administering MIQ may recommend these regulations following consultation with the Minister of Health. All decision-making powers in the Bill are to be exercised by Executive Council (on my recommendation) or the chief executive of MBIE.
- 66 While there is no explicit role for the judiciary in the Bill, the judiciary would be involved in any judicial review of decision-making under the Bill or its associated regulations, or civil debt recovery.

Associated regulations

- 67 Regulations are required to:
- 67.1 set the fees payable (ie the fee structure);
 - 67.2 prescribe any classes of people to be exempt from fees;
 - 67.3 set criteria for waiving fees in full or in part;
 - 67.4 set criteria for refunding fees; and
 - 67.5 prescribe the manner and timing of payments.

- 68 I intend to seek LEG approval of regulations on 4 August 2020, to come into effect following Executive Council approval on 10 August 2020. I will seek a waiver of the 28-day rule so that fees can come into effect when the regulations enter into force.

Other instruments

- 69 The Bill amends the COVID-19 Act and allows the creation of regulations relating to cost recovery. These regulations will be disallowable instruments.

Definition of Minister/department

- 70 The Bill contains a definition of a 'relevant Minister'. This means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is responsible for the administration of new subpart 3 of Part 2 of the Act (i.e. cost recovery associated with MIQ facilities).
- 71 It also specifies that the chief executive of the Ministry of Business, Innovation and Employment is responsible for collecting fees and has the authority to waive/refund fees in full or in part.

Commencement of legislation

- 72 The Bill will come into force on Royal assent. The regulations will come into force the day after Royal assent, which is intended to be 11 August 2020.

Parliamentary stages

- 73 The Bill will be introduced on 29 July or 30 July 2020, and it should be passed by 6 August 2020.
- 74 Following first reading, I intend to refer the Bill to the Finance and Expenditure Select Committee for report back on 3 August, if the Business Committee agree to waive Standing Order 296 (which specifies when a Bill reported back from Select Committee can have its second reading). If Standing Order 296 is not waived, I propose that the Bill be passed under urgency.

Proactive release

- 75 I intend to proactively release the paper, with any redactions which are appropriate under the Official Information Act 1982, after I have introduced legislation to the House and as part of the Government's COVID-19 proactive releases.

Announcement/publicity

- 76 I intend to make a public announcement when the Bill is introduced to the House.

Recommendations

The Minister of Housing recommends that the Committee:

- 1 **note** that the COVID-19 Public Health Response Amendment Bill holds a category 2 priority on the 2020 Legislation Programme (must be passed in the year);
- 2 **note** that the Bill will establish a legal basis for an MIQ fees system and create an obligation for people entering New Zealand to have booked and confirmed an MIQ space before entry [SWC-20-MIN-0109 refers];
- 3 **note** that MIQ fees, and requirements for exemptions, waivers, refunds and payment manner and timing will be set in regulations;

Further policy decisions

- 4 **agree** in addition to previously agreed exemptions [SWC-20-MIN-0109 refers], to exempt from fees:
 - 4.1 any temporary visa holder who:
 - 4.1.1 as of 19 March 2020, had been ordinarily resident in New Zealand in the prior 12 months, and
 - 4.1.2 who departed New Zealand on or before 19 March 2020, and
 - 4.1.3 who is not entering New Zealand on a border exception as a “critical worker” [CAB-20-MIN-0268 refers];
 - 4.2 any New Zealand citizens or residence class visa holders, or any Australian citizens or permanent residents who are ordinarily resident in New Zealand, if they are returning to New Zealand for at least 90 days, as a measure of whether they are returning on a temporary basis;
 - 4.3 partners, any dependent children and legal guardians who are isolating or travelling with someone who is exempt from paying MIQ fees, should also be exempt from the fees;
- 5 **agree** that under the COVID-19 Act, the Minister of Health or the Director-General of Health can make orders requiring people to report for and undergo medical examination or testing in specific circumstances;
- 6 **agree** that MIQ fees should not be considered lending under the Public Finance Act 1989;
- 7 **authorise** the Minister of Housing, in consultation with the Minister of Finance, to instruct Parliamentary Counsel Office to amend the Bill to give effect to paragraph 6 before the Bill is introduced if that is necessary;
- 8 **agree in principle** that the fees will be set as follows:
 - 8.1 \$3,100 for a single person occupying a room;
 - 8.2 \$950 for each additional adult occupying that same room;

- 8.3 \$475 for each additional child occupying that same room.
- 9 **agree in principle** that the child rate will apply to children aged over 3 years and under 18 years of age (at the time of check-in);
- 10 **agree in principle** that children under 3 years of age would not be charged a fee;
- 11 **agree in principle** that the regulations would allow the chief executive of the Ministry of Business, Innovation and Employment to waive fees in full if the applicant has cash assets under \$8,000 for a single person and under \$16,000 for a couple or sole parent;
- 12 **agree in principle** that the chief executive would be able to waive fees in full or part if they consider that undue financial hardship will be caused by the payment of the charges, or in any circumstances for which they consider a full/partial waiver to be appropriate.
- 13 **note** I intend to consult on these in principle decisions with the New Zealand Law Society, the Human Rights Commission, and appropriate stakeholders to reflect the Treaty of Waitangi partnership, and then seek approval of these regulations at LEG on 4 August 2020.

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- 14 **agree** that the Bill will be binding on the Crown;
- 15 **approve** the Bill for introduction, subject to the final approval of the government caucus and sufficient support in the House of Representatives;
- 16 **authorise** Parliamentary Counsel Office to make minor and technical changes to the Bill following approval by LEG and up to introduction;
- 17 **note** on 28 July 2020, the Business Committee will consider whether to waive Standing Order 296 in relation to this Bill, which specifies that the earliest a Bill reported back from Select Committee can have its second reading is the third sitting day after report-back;
- 18 **agree** that,
- if Standing Order 296 is waived,*
- 18.1 the Bill be introduced on 29 or 30 July 2020;
- 18.2 that the Government propose the Bill be referred to the Finance and Expenditure Select Committee for consideration, and reporting back to the House by 3 August 2020;
- 18.3 the Bill be enacted by 6 August 2020.
- if Standing Order 296 is not waived,*

18.4 the Bill should be introduced and passed through all stages by 6 August 2020.

- 19 **agree** that the Bill will commence on Royal assent, but that people will only become liable to pay fees if they enter New Zealand and go into MIQ after regulations come into force.

Authorised for lodgement

Minister of Housing

Hon Dr Megan Woods



Cabinet Legislation Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

COVID-19 Public Health Response Amendment Bill: Approval for Introduction

Portfolio

Housing

On 28 July 2020, the Cabinet Legislation Committee(LEG), having been authorised by Cabinet to have Power to Act [CAB-20-MIN-0355]:

- 1 **noted** that the COVID-19 Public Health Response Amendment Bill holds a category 2 priority on the 2020 Legislation Programme (must be passed in the year);
- 2 **noted** that the Bill will establish a legal basis for a managed isolation and quarantine (MIQ) fees system and create an obligation for people entering New Zealand to have booked and confirmed an MIQ space before entry [CAB-20-MIN-0352.02];
- 3 **noted** that MIQ fees, and requirements for exemptions, waivers, refunds and payment manner and timing will be set in regulations;
- 4 **agreed** in addition to previously agreed exemptions [CAB-20-MIN-0352.02], to exempt from fees:
 - 4.1 any temporary visa holder who:
 - 4.1.1 as of 19 March 2020, had been ordinarily resident in New Zealand in the prior 12 months, and
 - 4.1.2 who departed New Zealand on or before 19 March 2020, and
 - 4.1.3 who is not entering New Zealand on a border exception as a “critical worker” [CAB-20-MIN-0268];
 - 4.2 any New Zealand citizens or residence class visa holders, or any Australian citizens or permanent residents who are ordinarily resident in New Zealand, if they are returning to New Zealand for at least 90 days, as a measure of whether they are returning on a temporary basis;
 - 4.3 partners, any dependent children and legal guardians who are isolating or travelling with someone who is exempt from paying MIQ fees, should also be exempt from the fees;
- 5 **agreed** that under the COVID-19 Public Health Response Act 2020, the Minister of Health or the Director-General of Health can make orders requiring people to report for and undergo medical examination or testing in specific circumstances;

- 6 **agreed** that MIQ fees should not be considered lending under the Public Finance Act 1989;
- 7 **authorised** the Minister of Housing, in consultation with the Minister of Finance, to instruct Parliamentary Counsel Office to amend the Bill to give effect to paragraph 6 before the Bill is introduced if that is necessary;
- 8 **agreed in principle** that the fees will be set as follows:
- 8.1 \$3,100 for a single person occupying a room;
- 8.2 \$950 for each additional adult occupying that same room;
- 8.3 \$475 for each additional child occupying that same room;
- 9 **agreed** in principle that the child rate will apply to children aged over 3 years and under 18 years of age (at the time of check-in);
- 10 **agreed in principle** that children under 3 years of age would not be charged a fee;
- 11 **agreed in principle** that the regulations would allow the chief executive of the Ministry of Business, Innovation and Employment to waive fees in full if the applicant has cash assets under \$8,000 for a single person and under \$16,000 for a couple or sole parent;
- 12 **agreed in principle** that the chief executive would be able to waive fees in full or part if they consider that undue financial hardship will be caused by the payment of the charges, or in any circumstances for which they consider a full/partial waiver to be appropriate.
- 13 **noted** that the Minister of Housing intends to consult on these in principle decisions with the New Zealand Law Society, the Human Rights Commission, and appropriate stakeholders to reflect the Treaty of Waitangi partnership, and then seek approval of these regulations at LEG on 4 August 2020;
- 14 **agreed** that the Bill will be binding on the Crown;
- 15 **approved** for introduction the COVID-19 Public Health Response Amendment Bill [PCO 23099/5.0], subject to the final approval of the government caucuses and sufficient support in the House of Representatives;
- 16 **authorised** the Minister of Housing to make minor and technical changes to the Bill following approval by LEG and up to introduction;
- 17 **agreed** that the Bill be:
- 17.1 introduced on 29 July 2020;
- 17.2 enacted by 6 August 2020;
- 18 **agreed** that the Bill will commence on Royal assent, but that people will only become liable to pay fees if they enter New Zealand and go into MIQ after regulations come into force;

19 **noted** that:

- 19.1 the New Zealand First Party supports the principle that New Zealanders returning from overseas should contribute to the costs for MIQ, and will support the enabling legislation, the COVID-19 Public Health Response Amendment Bill, through all stages;
- 19.2 in accordance with agreed coalition processes, the party leaders of Labour and New Zealand First have agreed that the New Zealand First Party will be free to differentiate publicly on the parameters of the MIQ fees system.

Gerrard Carter
Committee Secretary

Present:

Rt Hon Winston Peters
Hon Grant Robertson
Hon Dr Megan Woods
Hon Chris Hipkins (Chair)
Hon Andrew Little
Hon David Parker
Hon Stuart Nash
Hon Damien O'Connor
Hon Ron Mark
Hon Tracey Martin
Hon Poto Williams
Hon James Shaw
Hon Julie Ann Genter
Hon Eugenie Sage
Michael Wood MP (Senior Government Whip)

Officials present from:

Office of the Prime Minister
Officials Committee for LEG