

COVID-19 Public Health Response (Validation of Managed Isolation and Quarantine Charges) Amendment Bill

Government Bill

Explanatory note

General policy statement

When charges for Managed Isolation and Quarantine (**MIQ**) were introduced in August 2020, Cabinet's policy intent was that Australian citizens and permanent residents who were ordinarily resident in New Zealand would have the same liability for charges as New Zealand citizens and residents. All other Australians were expected to be liable for charges under the provisions in the COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Regulations 2020 (the **Regulations**) related to temporary entry class visa holders, including other critical workers and critical health workers.

However, because of New Zealand's special relationship with Australia, Australian citizens' and permanent residents' status is generally converted to a resident class visa when they enter New Zealand, regardless of the visa that they travel on. This visa-conversion process creates a technical issue where some Australians may have been charged an MIQ fee for which it could be argued that there was no lawful authority to charge.

This Bill validates the imposition and collection of specified charges under the COVID-19 Public Health Response Act 2020 and provides for their lawful collection going forward. In particular, the Bill—

- retrospectively validates the imposition and collection of specified MIQ charges by inserting a new provision that provides that an Australian citizen or permanent resident was validly and lawfully charged if they arrived in New Zealand under a temporary entry class visa, including those who travelled on a border exception as a critical health worker or other critical worker in the

period starting on 11 August 2020 and ending on the commencement of this Bill:

- amends the Regulations to provide that the relevant visa status or border exception in determining whether a person is a “specified person” for the purposes of regulation 6(1)(a) is the visa status or border exception they held upon arrival in New Zealand (as opposed to entry).

Departmental disclosure statement

The Ministry of Business, Innovation, and Employment is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2021&no=42>

Regulatory impact statement

A regulatory impact statement is not required for this Bill.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause. The Bill comes into force on the day after the date on which it receives the Royal assent.

Clause 3 states that the Bill amends the COVID-19 Public Health Response Act 2020.

Clause 4 amends Schedule 1 to provide for the retrospective validation of certain managed isolation and quarantine charges.

Clause 5 provides for the amendment of the COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Regulations 2020 as set out in the *Schedule*.

Hon Chris Hipkins

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Contents

	Page
1 Title	1
2 Commencement	1
3 Principal Act	1
4 Schedule 1 amended	2
5 Regulations amended	2
Schedule	3
Amendments to COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Regulations 2020	

The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the COVID-19 Public Health Response (Validation of Managed Isolation and Quarantine Charges) Amendment Act **2021**.
- 2 Commencement** 5
This Act comes into force on the day after the date on which it receives the Royal assent.
- 3 Principal Act**
This Act amends the COVID-19 Public Health Response Act 2020.

**COVID-19 Public Health Response (Validation of
Managed Isolation and Quarantine Charges)
Amendment Bill**

cl 4

4 Schedule 1 amended

In Schedule 1, after clause 4, insert:

5 Validation of managed isolation and quarantine charges

- (1) This clause applies to a charge—
- (a) in respect of an Australian citizen or a person who holds a current permanent residence visa (including a resident return visa) issued by the Government of Australia who, in the period starting on 11 August 2020 and ending on the commencement of the COVID-19 Public Health Response (Validation of Managed Isolation and Quarantine Charges) Amendment Act **2021**,—
 - (i) arrived in New Zealand; and
 - (ii) was required by or under a COVID-19 order to stay in a managed isolation or quarantine facility; and
 - (b) payable or purportedly payable in accordance with regulation 6(2) of the COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Regulations 2020 on the basis that the person in **paragraph (a)**—
 - (i) was a temporary entry class visa holder; or
 - (ii) entered New Zealand on a border exception as either of the following in accordance with immigration instructions:
 - (A) critical health worker:
 - (B) other critical worker.
- (2) The charge is and always has been validly imposed by regulations made under section 33A.
- (3) Money received by the chief executive of MBIE in payment of the charge is and always has been lawfully collected and applied.

5 Regulations amended

Amend the COVID-19 Public Health Response (Managed Isolation and Quarantine Charges) Regulations 2020 as set out in the **Schedule**.

Schedule
**Amendments to COVID-19 Public Health Response (Managed
Isolation and Quarantine Charges) Regulations 2020**

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Regulation 6

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In regulation 6(2)(c), after “the person is”, insert “, at the time of arrival in New Zealand,”.

In regulation 6(2)(d), replace “entered” with “arrived in”.