



COVID-19 Public Health Response Amendment Act 2020

Public Act 2020 No 57
Date of assent 6 August 2020
Commencement see section 2

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Schedule 8
Further amendments to principal Act

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the COVID-19 Public Health Response Amendment Act 2020.

2 Commencement

This Act comes into force on Royal assent.

3 Principal Act

This Act amends the COVID-19 Public Health Response Act 2020 (the **principal Act**).

Part 1
Amendments to Part 1 of principal Act

4 Section 4 amended (Purpose)

After section 4(c), insert:

- (ca) allows social, economic, and other factors to be taken into account where it is relevant to do so; and
- (cb) is economically sustainable and allows for the recovery of MIQF costs; and

5 Section 5 amended (Interpretation)

(1) In section 5(1), insert in their appropriate alphabetical order:

COVID-19 order means an order made under section 11 (as may be amended or extended from time to time under section 15)

managed isolation or quarantine facility or **MIQF** means a facility that is designated by the New Zealand Government for use as a place of isolation or quarantine

MBIE means the Ministry of Business, Innovation, and Employment

MIQF costs means costs incurred by the New Zealand Government in respect of persons staying at MIQFs

prescribed charge means a charge prescribed by regulations made under section 33A

relevant Minister 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 subpart 3A of Part 2

- (2) In section 5(1), repeal the definition of **section 11 order**.

Part 2 Amendments to Part 2 of principal Act

6 Section 9 amended (Minister may make section 11 orders)

After section 9(1)(b), insert:

- (ba) the Minister must be satisfied that the order does not limit or is a justified limit on the rights and freedoms in the New Zealand Bill of Rights Act 1990; and

7 Section 11 amended (Orders that can be made under this Act)

- (1) In section 11(1), replace “An order made by the Minister or the Director-General (as the case may be) under this section may be made” with “The Minister or Director-General may in accordance with section 9 or 10 (as the case may be) make an order under this section”.
- (2) Replace section 11(1)(a)(viii) with:
- (viii) report for and undergo a medical examination or testing of any kind, and at any place or time, specified and in any specified way or specified circumstances:
- (3) After section 11(1)(a)(ix), insert:
- (x) satisfy any specified criteria before entering New Zealand from a place outside New Zealand, which may include being registered to enter an MIQF on arrival in New Zealand:

8 New subpart 3A of Part 2 inserted

After section 32, insert:

Subpart 3A—Cost recovery

32A Purpose of subpart

The purpose of this subpart is to enable the New Zealand Government to recover MIQF costs.

32B MIQF costs subject to recovery

The relevant Minister may recommend the making of regulations under section 33A prescribing charges only if satisfied that the charges concerned relate to MIQF costs (including direct and indirect costs).

32C Criteria for cost recovery

The relevant Minister may recommend that regulations be made under section 33A only if the Minister is satisfied of the following matters:

- (a) the prescribed charges recover from any class of persons no more than an estimate of the actual and reasonable MIQF costs incurred in relation to that class (including both direct and indirect costs); and
- (b) 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
- (c) the prescribed charges do not limit or are justified limits on the rights and freedoms in the New Zealand Bill of Rights Act 1990.

32D Methods of cost recovery

- (1) The methods by which MIQF costs may be recovered are as follows:
 - (a) fixed charges, or a method of calculating or ascertaining the charges:
 - (b) charges based on a scale or formula or at a rate determined on a unit basis:
 - (c) charges based on costs incurred from third parties:
 - (d) charges of estimated actual and reasonable costs to be spent on or in connection with the use of an MIQF.
- (2) Without limiting the way in which a charge may be set, a charge may be set at a level or in a way that—
 - (a) is determined by calculations that involve an averaging of costs:
 - (b) takes account of costs or potential costs that are not directly incurred in relation to the use of an MIQF by the person paying the charge, but which are costs or potential costs arising indirectly in relation to the use of an MIQF by 1 or more classes of persons.

32E Persons in respect of whom prescribed charges payable

- (1) A prescribed charge is payable by or on behalf of a person, in accordance with regulations made under section 33A, if—
 - (a) the person—
 - (i) has arrived in New Zealand from a place outside New Zealand and is required by or under a COVID-19 order to stay at an MIQF; and
 - (ii) is a member of any prescribed class of persons; and
 - (iii) is not an exempt person; or
 - (b) the person—
 - (i) has elected to enter an MIQF for isolation or quarantine; and

- (ii) is not an exempt person.
- (2) An **exempt person** is a person who—
- (a) is, for the time being, accorded privileges and immunities under—
 - (i) the Vienna Convention on Diplomatic Relations in accordance with the Diplomatic Privileges and Immunities Act 1968; or
 - (ii) the Vienna Convention on Consular Relations in accordance with the Consular Privileges and Immunities Act 1971; or
 - (b) is officially recognised as accompanying family of a person described in paragraph (a); or
 - (c) is an official of a government entity travelling to New Zealand to conduct business with—
 - (i) New Zealand Ministers of the Crown; or
 - (ii) a ministry or department of the New Zealand Government; or
 - (d) is a holder of a diplomatic or other official passport entering or transiting through New Zealand—
 - (i) en route to, or returning from, a diplomatic posting in a country other than New Zealand; or
 - (ii) for the purpose of assisting with the operations of the embassy or consulate (in New Zealand or elsewhere) of the country for which the person holds a passport on which the person is travelling; or
 - (e) is an official of a government entity entering or transiting through New Zealand en route to, or returning from, a third country—
 - (i) where the purpose of the visit to the third country was or is to conduct official government-to-government business; and
 - (ii) the person is able to provide evidence to verify that purpose; or
 - (f) is, or is a member of a class of persons that is, exempted by or under regulations made under section 33A from paying the prescribed charges.

32F Exemptions, waivers, and refunds

- (1) Regulations made under section 33A may provide for exemptions from, or waivers or refunds of, the whole or part of any prescribed charge in any class or classes of cases.
- (2) Regulations made under section 33A may authorise the relevant Minister or the chief executive of MBIE to exempt, waive, or refund the whole or part of any prescribed charge, or defer the time for payment, in any particular case or any class or classes of cases (and may or may not prescribe criteria to be applied by the relevant Minister or the chief executive in doing so).

32G Payment of charge

- (1) A prescribed charge is payable by a person—

- (a) in the manner prescribed (for example, by instalments); and
 - (b) at the time prescribed.
- (2) Regulations made under section 33A may authorise the chief executive of MBIE to specify in relation to 1 or more classes of persons, or all persons, the manner and time of payment of any prescribed charge.
- (3) All prescribed charges received by or on behalf of the New Zealand Government must be paid into a Crown Bank Account.

32H Express authorisation for purpose of section 65K of Public Finance Act 1989

To the extent that this subpart and any regulations made under section 33A enable the relevant Minister or the chief executive of MBIE on behalf of the Crown to lend money (as that term is defined in section 2(1) of the Public Finance Act 1989) to a person or organisation, this subpart is an express authorisation for the purpose of section 65K of that Act.

32I Prescribed charges to constitute debt due to Crown

A prescribed charge or part of a charge that is not paid by the due date is recoverable in a court of competent jurisdiction as a debt to the Crown.

9 New section 33A inserted (Regulations relating to cost recovery)

After section 33, insert:

33A Regulations relating to cost recovery

- (1) The Governor-General may, by Order in Council made on the recommendation of the relevant Minister made after consultation with the Minister of Health,—
- (a) make regulations prescribing charges for MIQF costs in accordance with the provisions of subpart 3A:
 - (b) make regulations for the purposes of section 32E:
 - (c) make regulations for the purposes of section 32F:
 - (d) make regulations for the purposes of section 32G:
 - (e) make regulations prescribing how the charges may be collected:
 - (f) make regulations providing for the payment of increased or additional charges in the event of late payment or non-payment:
 - (g) make regulations providing for any other matters necessary or desirable for the efficient recovery of MIQF costs.
- (2) The charges may be prescribed using any 1 or more of the methods specified in section 32D, or any combination of those methods.
- (3) Different charges, or different rates or types of charges, may be prescribed in respect of—
- (a) different classes of persons:

- (b) persons in different circumstances:
 - (c) different types of MIQFs:
 - (d) different locations of MIQFs.
- (4) Any regulations made under this section may not be held invalid just because they confer a discretion on, or allow any matter to be determined by, any person whether or not there are prescribed criteria.

10 Further amendments

In the provisions of the principal Act specified in the third column of the Schedule, replace in each place the phrase specified in the first column of that schedule (the current phrase) with the corresponding phrase set out in the second column of that schedule.

Schedule

Further amendments to principal Act

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Current phrase	Replacement phrase	Provisions of principal Act
section 11 order	COVID-19 order	8 9(1) 10 12 13 14 15 16 heading 16(1) 17 20 21 22 24 26
section 11 orders	COVID-19 orders	Schedule 1 Part 2, subpart 1 heading 8 heading 8(c) 9 heading 10 heading 12 heading 13 heading Part 2, subpart 2 heading 14 heading 14(5) 15 heading 17 heading

Legislative history

29 July 2020	Introduction (Bill 316–1)
4 August 2020	First reading, second reading, committee of the whole House, third reading
6 August 2020	Royal assent

This Act is administered by the Ministry of Health.