

Departmental Disclosure Statement

COVID-19 Public Health Response Amendment Bill (No 2)

The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Ministry of Health and the Ministry of Business, Innovation and Employment.

The Ministry of Health and the Ministry of Business, Innovation and Employment certifies that, to the best of their knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

Finalised 21 September 2021.

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Part One: General Policy Statement

The [COVID-19 Public Health Response Act 2020](#) (the Act), enacted in May 2020, established a bespoke legal framework to manage the unprecedented circumstances of the COVID-19 epidemic in a co-ordinated and orderly way. It was intended to apply both during and after any national state of emergency. The Act is an enabling framework that allows the Minister for COVID-19 Response (or the Director-General of Health in specified circumstances) to make COVID-19 orders to give effect to the public health response to COVID-19. Among other things, existing COVID-19 orders—

- set the restrictions that apply to different regions of New Zealand under the alert level system:
- establish isolation and quarantine requirements for people entering New Zealand via the air or maritime borders:
- require vaccination and regular testing of workers if they are to undertake certain work at borders or at managed isolation or quarantine (MIQ) facilities.

Purpose

This Bill aims to enable the public health response to COVID-19 to continue to function in a co-ordinated and orderly way, informed by the experience of working with the Act since its commencement. Specifically, it seeks to—

- better reflect our knowledge of how long the public health response may be necessary:
- address the reliance of MIQ on the general law and operational decisions:
- ensure that the empowering and enforcement provisions are fit-for-purpose to prevent and manage the risk of outbreak or spread of COVID-19.

Policies included in the Bill

The Bill—

- extends the term of the Act from May 2022 to May 2023:
- strengthens the infringement regime by increasing the maximum fines and fees, and enables new regulations to set a sliding scale of infringement offences:
- refines the powers of COVID-19 orders, including by broadening their purpose, incorporating material by reference, and improving delegations:
- empowers the creation of orders for the purpose of requisitioning testing consumables and requiring labs doing COVID-19 testing to do so for the national public health response, with appropriate compensation and a disputes appeal process:
- expressly recognises the ability of the chief executive of the agency responsible for MIQ (currently the Ministry of Business, Innovation, and Employment) (MBIE) to impose room restrictions on people undertaking isolation or quarantine:
- shifts provisions regarding the allocation and prioritisation of spaces in MIQ from COVID-19 orders to primary legislation:
- recognises the complaints process of MIQ:
- enables the chief executive of the responsible agency to make rules for the day-to-day operation of MIQ facilities:
- reverses the default liability for MIQ charges, so that people are liable unless exempt (rather than only liable if members of a prescribed class):
- enables MIQ to collect contact details from people undertaking isolation or quarantine to support invoicing for MIQ charges.

The Bill does not change the existing safeguards of the Act, such as (but not limited to) the requirements for the House to pass resolutions to continue the Act on a periodic basis, the prerequisites for COVID-19 orders or the requirement that all COVID-19 orders be consistent with the New Zealand Bill of Rights Act 1990.

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	YES
<p>The Act and associated legislative instruments are subject to review by the Regulations Review Committee, which ensures detailed parliamentary oversight of secondary legislation issued under the Act.</p> <p>The Government's Elimination Strategy, implemented under the Act, is subject to regular review by the Health Select Committee.</p> <p>The Ministry of Health (MoH) evaluates the Act and Orders against the Elimination Strategy as part of an ongoing internal review process for both existing and proposed measures (for example, the issue with sub-delegation was identified in the process of making the pre-departure testing and quarantine-free travel orders).</p> <p>There have been a number of reviews of Managed Isolation and Quarantine (MIQ) and MIQ facilities, some of which are available online at on the MIQ website. These include the Rapid Assessment of MIQ and the report into transmission at the Pullman Hotel in January 2021.</p>	

Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO
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Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	YES
<p>Two regulatory impact statements were initially produced to inform the policy decisions for this Bill. MoH provided the statement <i>Legislative improvements to support the public health response to COVID-19</i> in May 2021, while MBIE produced <i>Legislative Framework for Managed Isolation and Quarantine</i> on 6 May 2021.</p> <p>A third regulatory impact statement, <i>COVID-19 Orders: Increased penalties for non-compliance</i>, was produced by the Department of the Prime Minister and Cabinet on 6 September 2021 to support increasing the maximum penalties for infringement offences.</p> <p>Although these reports are not available online at time of writing this disclosure statement, each Ministry will publish their Regulatory Impact Statements on their websites, as well as that of the Treasury, upon introduction of the Bill:</p> <ul style="list-style-type: none">MoH: https://www.health.govt.nz/about-ministry/information-releases/regulatory-impact-statementsMBIE: https://www.mbie.govt.nz/document-libraryDPMC: https://dpmc.govt.nz/publications <p>Treasury: https://www.treasury.govt.nz/publications/legislation/regulatory-impact-assessments</p>	

2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?	YES
<p>The first two regulatory impact statements were assessed by a two-person panel chaired by MoH with a second member from MBIE. The Treasury advised on and approved the make-up of this panel.</p> <p>The panel considered that the Impact Statements were clear, concise and complete, and identified a range of feasible options in terms of the legislative proposals. However, due to the short timeframes allowed for the development of the regulatory proposals, there was limited consultation outside of government. As such, the RIAs were assessed as 'partially meets' with respect to the RIA quality assurance criteria of consultation.</p> <p>The third regulatory impact statement produced by DPMC was assessed by a panel comprising MoH, DPMC (The Policy Project) and the Ministry of Justice. The panel assessed the Impact Statement as 'partially meets' on the basis that it provides a good account of the policy problem and rationale for intervention, however it does not meet the quality assurance criteria for convincing and consultation due to the absence of sufficient cost/benefit assessment. The panel noted that significant increases in penalties will have equity, proportionality and consistency implications, and that public consultation has not been undertaken.</p>	

2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?	YES
<p>Clause 12 amends section 22 by extending the power to stop vehicles to certain authorised persons under the Act when under the supervision of a police constable. This amendment was proposed after the RIA was undertaken and deemed exempt from the requirement to produce a regulatory impact statement on the grounds that it has no or only minor impacts on businesses, individuals, and not-for-profit entities.</p>	

Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO
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2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	NO
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	NO
(b) the nature and level of regulator effort put into encouraging or securing compliance?	NO

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?
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We have consulted on the policies in this Bill with the Ministry of Foreign Affairs and Trade.
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Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?

The content of the Bill does not specifically impact rights and interests of Māori protected by the Treaty of Waitangi, and in the case of customary interests, also protected at common law.

MoH's internal Māori Health Directorate was consulted through the development of this Bill, as well as their Oversight Equity Advisory Group. A number of Māori and iwi representative groups were given an opportunity to meet to discuss the Bill prior to its introduction for initial feedback and to inform their submissions at Select Committee. These included:

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| <ul style="list-style-type: none">• Te Rōpū Whakakaupapa Urutā• Pandemic Response Group (subgroup of the National Iwi Chairs Forum)• Iwi with MIQ facilities in their rohe. |
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Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?

YES

Advice provided to the Attorney-General by the Ministry of Justice, or a section 7 report of the Attorney-General, is generally expected to be available on the Ministry of Justice's website upon introduction of a Bill. Such advice, or reports, will be accessible on the Ministry's website at http://www.justice.govt.nz/policy/constitutional-law-and-human-rights/human-rights/bill-of-rights/

Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:	
(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?	YES
(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	YES
<p>a) Changes have been made to the offence penalties, most significantly enabling regulations to prescribe levels of infringement offence penalties within a maximum set by the Act and by increasing the maximum penalties in the Act. For further detail please see Appendix One.</p> <p>b) The Bill includes provisions (new sections 11(1)(d) and (e)) allowing the Minister to use Orders to:</p> <ol style="list-style-type: none"> 1. requisition testing consumables from laboratories for the use and reallocation for national public health response; and 2. require laboratories to undertake COVID-19 testing solely for the purposes of the public health response to COVID-19. <p>Clause 8 introduces new section 11A, which ensure that persons affected by these two new powers are respectively entitled to compensation from the Crown at market value for the consumable requisitioned and payment from the Crown for testing undertaken at the market rate. Those affected by these provisions can take any dispute regarding claims for compensation or payment to the District Court, whose decision is final.</p>	

3.4.1. Was the Ministry of Justice consulted about these provisions?	YES
<p>The Ministry of Justice was consulted throughout the development of the policy proposals and the drafting of the Bill. Their comments were taken into account in subsequent papers and Bill drafts and either addressed or resulted in changes being made accordingly.</p>	

Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?	YES
<p>Clause 22 of the Bill introduces section 32T, which requires persons undertaking managed isolation or quarantine to provide and update their onward contact details for the purpose of invoicing for MIQ charges. These provisions have been included for enforcement purposes: this data is already collected on a voluntary basis by MBIE and held until invoices are paid, but this is not an express legal requirement and there is no means to enforce it should someone refuse.</p> <p>Clause 22 of the Bill also introduces sections 32Q and 32R which enable the Chief Executive of MBIE to make rules about the orderly and effective operation of MIQ facilities, such as rules for deliveries. To support enforcement, the Chief Executive can hold items that are, or there are reasonable grounds to believe are, in breach of the rules.</p>	

3.5.1. Was the Privacy Commissioner consulted about these provisions?	YES
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The Privacy Commissioner was consulted during the development of the policy.

The Commissioner was concerned that statutory protections in 32T should ensure that the information collected for invoicing purposes is only re-used in appropriate circumstances, such as the administration of MIQ facilities and recovery of debt owed to the Crown. MIQ data collection practices are already in place to support this provision.

The Commissioner was also concerned that the power to make rules for deliveries (section 32Q, 32R) would necessarily involve an inspection power (and deliveries could conceivably include personal information). The Bill does not include an inspection power. Any inspection to determine whether an item is in breach of a rule can only be undertaken with the consent of the owner. The reasonable grounds element acts as a safeguard to ensure that there is a reasonable basis for withholding an item if a person does not agree to inspection.

External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	NO
<p>Timeframes did not allow for external consultation. However, in July 2021 officials approached key stakeholders proposing limited engagement, to inform them of the upcoming Bill and enable them to submit at Select Committee with a better understanding of the Bill.</p> <p>Engagement activities consisted of contacting or meeting with the following groups:</p> <ul style="list-style-type: none"> • Public Health Unit representatives • Medical Officers of Health • Te Rōpū Whakakaupapa Urutā • Pandemic Response Group (subgroup of the National Iwi Chairs Forum) • Iwi with MIQ facilities in their rohe • NZCTU • Hotels operating as MIQ facilities. <p>Feedback from these stakeholders was largely positive, and detailed discussions focussed on the implementation of changes, rather than the policy rationale behind them.</p>	

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	YES
<p>Policy development, including drafting, involved operational staff at both MoH and MBIE. Consultation also took place with a range of agencies and organisations, including the Legislation Design and Advisory Committee, Regulations Review Committee; Departments of Prime Minister and Cabinet and of Internal Affairs; the Foreign Affairs and Trade, Education, Justice, Pacific Peoples, Transport, Women and Primary Industries Ministries; New Zealand Customs Service; Parliamentary Counsel Office; the Offices of the Privacy Commissioner, Crown Law and Ethnic Communities; the New Zealand Police; the Treasury; and Te Puni Kōkiri. These agencies were not formally consulted on the policy proposal to increase the maximum penalties further.</p>	

Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	YES
<p>As stated above. Clause 7 introduces sections 11(1)(d) and (e), which allow the Minister to use Orders to requisition testing consumables from laboratories for the use and reallocation for national public health response. This is intended to provide security in case there should be a shortage of materials for public testing as a result of high global or domestic demand for testing supplies. It includes provisions that compensation will be paid at a market rate. Those affected by these provisions can take any dispute regarding claims for compensation or payment to the District Court, whose decision is final. This is aligned with singular provisions providing for the compulsory requisition of property under the <i>Health Act 1956</i>.</p> <p>The existing safeguards on the Orders (eg, the requirement that they be justified under the <i>New Zealand Bill of Rights Act 1990</i> (NZBORA)) will continue to apply.</p>	

Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO
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Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO
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Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	YES
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO
<p>The Bill introduces three new strict liability offences:</p> <ul style="list-style-type: none">• clause 13, new section 26(3)(b) provides that a breach of a rule made by the Chief Executive under new 32Q is an infringement offence• clause 22 introduces section 32P(1), a requirement for people undertaking managed isolation or quarantine to remain in their rooms except in specified circumstances. Section 32P(6) provides that a failure to comply with this requirement is an infringement offence• clause 22 introduces section 32T, a requirement for people undertaking managed isolation or quarantine to provide, and keep updated, their contact details for the purpose of invoicing. Section 32T(3) provides that failure to comply with this requirement will be an infringement offence. <p>The Bill also provides for delegated legislation, which may have infringement offences attached, such as the series of clauses that amend the possible breadth of COVID-19 Orders, thereby enabling new strict liability offences (see 4.8 for list of clauses/sections).</p>	

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO
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Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	YES
<p>The Bill contains two powers that could directly affect rights, obligations or interests:</p> <ul style="list-style-type: none">• Clause 22 introduces new section 32P. This section requires that people undertaking isolation or quarantine remain in their rooms except in specified circumstances, including to do an activity authorised by the relevant Chief Executive such as access fresh air. However, s32P(3) allows for the relevant Chief Executive to <u>not</u> authorise activities in the following situations: public health, health and safety or security. Restrictions must be consistent with NZBORA.• Clause 22 introduces new section 32R, which allows for the holding of items brought into the MIQ facility that are, or there are reasonable grounds to believe are, in breach of rules (under s32Q). Any rules made under 32Q must also be justified under NZBORA. Items can only be held for the duration of a person's stay in MIQ. <p>The Bill also amends the empowering provisions of delegated legislation that could affect a person's rights, obligations or interested. Appendix Two has more information on changes to these provisions.</p>	

Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	YES
<p>Clause 9 of the Bill amends section 12 of the Act, specifically 12(1)(d), which enables COVID-19 Orders to authorise the Director-General of Health or the relevant Chief Executive to use Gazette notices to provide further specificity – including on exemptions – of requirements under those Orders. Those authorisations will be subject to any criteria or conditions specified in the Order, which in turn will need to go through the existing processes for creating Orders.</p>	

4.8. Does this Bill create or amend any other powers to make delegated legislation?	YES
<p>The Bill amends the powers to make COVID-19 Orders. It also creates powers to make new delegated legislation: new rules for MIQ and regulations to prescribe categories of infringement offences.</p> <p>For more detail, see Appendix Two.</p>	

Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	YES
<p>Clause 25 introduces new sections 33B and 33C. These are unusual in that 33B(4) deviates from the standard approach under the Legislation Act 2019 by allowing incorporating provisions that ensure that Orders always refer to the most up-to-date version of the material referenced. This will enable greater flexibility and workability of Orders and will ensure a robust and enduring legal platform for responding to COVID-19 or another pandemic in the future. It will also reduce the administrative burden of updating Orders as new information becomes available, allowing the Government to quickly adapt to the situation, and improving public access to real-time rules and requirements.</p>	

Appendix One: Further Information Relating to Part Three

Offences, penalties and court jurisdictions – question 3.4(a)

The Act currently prescribes the infringement fee and sets a maximum fine. A person who commits an infringement offence is currently liable to an infringement fee of \$300 or a fine imposed by a court not exceeding \$1,000. The Bill instead enables regulations to prescribe infringement penalties (both fines and fees) within maximum set in primary legislation and increases the maximum penalties in the Act. It distinguishes between individuals and bodies corporate for the purpose of infringement penalties. The Bill also provides several new infringement offences.

Maximum penalties are increased

- Clause 13 new section 26(4) increases the maximum infringement fee from \$300 to \$4,000 for an individual and to \$12,000 for a body corporate, and to increase the maximum court imposed fine from \$1,000 to \$12,000 for an individual and to \$15,000 for a body corporate.
- Clause 13 new section 26(2) increases maximum penalties for mens rea offences from \$4,000 or 6 months imprisonment to \$12,000 or 6 months imprisonment for an individual, and \$15,000 for a body corporate.
- Clause 14 amends section 27(4) to increase maximum penalties for offences in relation to the exercise of enforcement officer powers to match those in new section 26.

Infringement penalty levels will be set in regulations

- Clause 23 replaces section 33 of the principal Act, enabling the creation of regulations to prescribe levels of penalties for infringement offences within the maxima set by new section 26.

COVID-19 Orders will specify infringement offences and the corresponding penalty level

- Clause 7 new section 11(2) enables COVID-19 Orders to specify which infringement penalty level from the regulations applies to offences in the Orders.

Rules for MIQ are empowered and tied into offences

- Clause 13, new section 26(3)(b) provides that a breach of rule made by the chief executive of the responsible agency (currently MBIE) under new section 32Q in clause 22 is an infringement offence.
- Clause 22 new section 32Q(1)(c) allows for rules to specify which infringement penalty level from the regulations applies to the rules.
- Clause 11 amends section 21 to provide that an enforcement officer can direct a person if there are reasonable grounds to believe that a person is contravening or likely to contravene a rule. Intentional failure to comply with a direction is an offence under section 27(2) of the Act.

New offences are created

- Note the rules related offences above.
- Clause 22 introduces section 32P(1), a requirement for people undertaking managed isolation or quarantine to remain in their rooms except in specified circumstances. Section 32P(6) provides that a failure to comply with this requirement is an infringement offence. 32P(5) provides that intentional failure to comply is a mens rea offence.

- Clause 22 introduces section 32T, a requirement for people undertaking managed isolation or quarantine to provide, and keep updated, their contact details for the purpose of invoicing. Section 32T(3) provides that failure to comply with this requirement will be an infringement offence.

Procedural updates

- Clause 15 amends section 28 of the Act to state that the procedure in section 21 of the Summary Proceedings Act 1957 applies to COVID-19 infringement offences.
- Clause 27 amends the definition of infringement notice in section 2(1) of the Summary Proceedings Act 1957 by including infringement notices issued under section 30 of the COVID-19 Public Health Response Act 2020 in the list of infringement offences in that definition.

Appendix Two: Further Information Relating to Part Three

Power to make delegated legislation – question 4.8

The Bill amends the powers to create delegated legislation but also amends the content permitted of that legislation, without necessarily amending the empowering provision. It creates powers to make new delegated legislation: new rules for MIQ (section 32Q). It also amends the powers to make COVID-19 Orders (sections 9 and 10) as well as changing their content, and amends the powers to create regulations, allowing them to prescribe categories of infringement offences (section 33). It also amends the content permitted for the MIQ charges regulations, although it does not amend the empowering provisions (section 33A).

Amendments to the empowering provisions for Orders

- Clause 6 amends section 10 of the principal Act, allowing COVID-19 orders created by the Director-General of Health to apply within any geographical or other practical boundaries.
- Clause 7 replaces section 11 of the principal Act, which is the primary empowering section for COVID-19 orders. It broadens the grounds for which Orders can be created beyond solely prevention, and introduces specific new grounds:
 - more effective management of movement in MIQ facilities and other places or isolation or quarantine.
 - the regulation of laboratories undertaking COVID-19 testing, requisitioning COVID-19 testing consumables and requiring testing laboratory to undertake testing solely for the public health response to COVID-19.
- Clause 7's amendments to 11(2) enable COVID-19 orders to specify fines and infringement fees for infringement offences against an order within limits set by regulations made under section 33 of the principal Act (see also clause 20). Other changes affect the definition of "things" and provided that goods prohibited from entering a port or place by a COVID-19 order are prohibited imports for the purposes of the Customs and Excise Act 2018.
- Clause 8 inserts new section 11A into the principal Act, which provides for compensation for testing laboratories whose consumables are requisitioned and for the payment for services where a laboratory is required by a COVID-19 order to undertake COVID-19 testing. This provision also enables the District Court to finally determine related questions and disputes. Similar provisions are contained in the Health Act 1956 (see sections 69ZZE and 87).
- Clauses 9 and 10 amend sections 12 and 13 to improve sub-delegation powers.
- Clause 25 inserts new sections 33B and 33C into the principal Act. Those new sections enable COVID-19 orders and other secondary legislation made under the Act to incorporate material by reference. Similar provisions are in sections 168 and 168A of the Animal Products Act 1999.

Amendment to cost recovery regulations

- While their empowering provisions (33A) are not amended, the permitted content for cost recovery regulations is. Clause 18 repeals section 32E(1)(a)(ii) of the

principal Act to reverse default liability for MIQ charges. The intention is that everybody who is required or elects to isolate in an MIQ facility must pay the charges unless exempt. Clause 18 also replaces section 32E(2), removing an exemption for diplomats. The removed exemption will be instead placed in the MIQ Charges Regulations for consistency.

Empowering new rules about MIQ

- Clause 22 introduces new section 32Q, which empowers the relevant Chief Executive to issue rules for the purpose of ensuring the effective and orderly operation of MIQ facilities. Rules will be secondary legislation and the Chief Executive must be satisfied that the rules do not limit, or are a justified limit, on the rights and freedoms in the New Zealand Bill of Rights Act 1990.

New regulations

- Clause 23 replaces section 33. The new section aligns the penalties for infringement offences with the new maximum penalties set out in clause 13 and enables the regulations to prescribe different levels of penalties for different classes of infringement offences (as contemplated by clause 7 and new section 32Q in clause 22).

Commencement by Order in Council

- Clause 2 (commencement) means that the following sections do not come into force on the day after Royal Assent but on a date appointed by the Governor-General by Order in Council:
 - Clauses relating to changes to the MIQ Charges regulations, allowing come into force alongside new regulations and reduce disruption (clause 18, relating to sections 32E(1)(a)(ii) and 32E(2))
 - Clauses relating to the new offence regime, including new regulations. This will allow the existing penalties regime to function while new regulations are developed (clause 5(3), relating to the definition of infringement fee, clause 7 as it relates to new section 11(2), clause 13 as it relates to section 26(4) and clause 22 as it relates to section 32Q(1)(c)).