



Biosecurity Legislation Amendment (Miscellaneous Measures) Act 2018

No. 88, 2018

**An Act to amend the *Biosecurity Act 2015*, and for
other purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

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No. 88, 2018

**An Act to amend the *Biosecurity Act 2015*, and for
other purposes**

[Assented to 31 August 2018]

The Parliament of Australia enacts:

1 Short title

This Act is the *Biosecurity Legislation Amendment (Miscellaneous Measures) Act 2018*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	31 August 2018
2. Schedule 1, Part 1	The day after this Act receives the Royal Assent.	1 September 2018
3. Schedule 1, Part 2	A single day to be fixed by Proclamation. However, if the provisions do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	1 March 2019
4. Schedule 2	The day after this Act receives the Royal Assent.	1 September 2018

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Part 1—Amendments commencing day after Royal Assent

Biosecurity Act 2015

1 Section 15

Omit “a person demonstrates to the Director of Biosecurity”, substitute “the Director of Biosecurity is satisfied”.

2 Paragraph 15(a)

Omit “the person”, substitute “a person”.

3 Section 134 (heading)

Repeal the heading, substitute:

134 Treatment that is likely to damage goods

4 After subsection 174(5) (before the notes)

Insert:

- (6) Despite subsection 14(2) of the *Legislation Act 2003*, a determination under subsection (1) may make provision in relation to a matter by applying, adopting or incorporating any matter contained in an instrument or other writing, as in force or existing from time to time, if the instrument or other writing is publicly available.

5 Section 209 (heading)

Repeal the heading, substitute:

209 Treatment that is likely to damage conveyance

6 Before paragraph 311(a)

Insert:

Schedule 1 Amendments

Part 1 Amendments commencing day after Royal Assent

- (aa) to enable information to be obtained about prohibited goods, suspended goods or certain conditionally non-prohibited goods that have been brought or imported into Australian territory and have been released from biosecurity control, for the purpose of assessing or managing the level of biosecurity risk associated with the goods; and

7 After Part 1 of Chapter 6

Insert:

Part 1A—Locating prohibited or suspended goods etc.

Division 1—Introduction

312A Simplified outline of this Part

If goods become suspended or prohibited goods, the Director of Biosecurity (or, in the case of prohibited goods, the Director of Human Biosecurity) may require a person in charge of certain goods that are of the same kind as the suspended or prohibited goods, and were brought or imported into Australian territory before the date the goods became suspended or prohibited goods, to notify the Director of:

- (a) the location of those goods; and
- (b) any other information specified by the Director that the person has relating to those goods.

A biosecurity officer may ask questions or require documents to be produced about prohibited goods, suspended goods or certain conditionally non-prohibited goods that have been brought or imported into Australian territory and have been released from biosecurity control.

The powers in this Part may be exercised in relation to goods for the purpose of assessing or managing the level of biosecurity risk associated with the goods.

Division 2—Information-gathering powers

312B Requirement to notify of information about goods that have become suspended goods

- (1) This section applies if:
- (a) the Director of Biosecurity has determined, under subsection 182(1), that specified goods or a specified class of goods (*suspended goods*) must not be brought or imported into Australian territory for a specified period (the *suspension period*); and
 - (b) the suspension period has not ended.

Note: The Director of Biosecurity may make a determination under subsection 182(1) in relation to goods, or a class of goods, only if the Director is satisfied that the level of biosecurity risk associated with the goods, or the class of goods, is unacceptable (see subsection 182(3)).

- (2) The Director of Biosecurity may require a person in charge of goods that:
- (a) are of the same kind as the suspended goods; and
 - (b) were brought or imported into Australian territory before the start of the suspension period; and
 - (c) have been released from biosecurity control;

to notify the Director, within a specified period, of the location of the goods and of any other information specified by the Director that the person has in relation to the goods.

Note 1: A person may commit an offence or contravene a civil penalty provision if the person provides false or misleading information (see section 137.1 of the *Criminal Code* and section 532 of this Act).

Note 2: This section is not subject to the privilege against self-incrimination (see section 635).

- (3) A requirement under subsection (2) may be made by publishing a notice or in any other way the Director of Biosecurity considers appropriate.
- (4) The Director of Biosecurity may exercise the power under subsection (2) in relation to goods for the purpose of assessing or managing the level of biosecurity risk associated with the goods.

Civil penalty provision

- (5) A person who is aware of the requirement to notify the Director of Biosecurity of information under subsection (2) must comply with the requirement.

Civil penalty: 120 penalty units.

312C Requirement to notify of information about goods that have become prohibited goods

- (1) This section applies if the Director of Biosecurity and the Director of Human Biosecurity jointly determine, under subsection 173(1), that specified goods or a specified class of goods (*prohibited goods*) must not be brought or imported into Australian territory.

Note: The Director of Biosecurity and the Director of Human Biosecurity may make a determination under subsection 173(1) in relation to specified goods, or a specified class of goods, only if each Director is satisfied of certain matters (see subsection 173(3)).

- (2) The Director of Biosecurity or the Director of Human Biosecurity may require a person in charge of goods that:
- (a) are of the same kind as the prohibited goods; and
 - (b) were brought or imported into Australian territory before the goods became subject to a determination under subsection 173(1); and
 - (c) have been released from biosecurity control;
- to notify the Director of Biosecurity or the Director of Human Biosecurity (as the case may be), within a specified period, of the location of the goods and of any other information specified by the Director that the person has in relation to the goods.

Note 1: A person may commit an offence or contravene a civil penalty provision if the person provides false or misleading information (see section 137.1 of the *Criminal Code* and section 532 of this Act).

Note 2: This section is not subject to the privilege against self-incrimination (see section 635).

- (3) A requirement under subsection (2) may be made by publishing a notice or in any other way the Director of Biosecurity or the Director of Human Biosecurity (as the case may be) considers appropriate.

- (4) The Director of Biosecurity or the Director of Human Biosecurity may exercise the power under subsection (2) in relation to goods for the purpose of assessing or managing the level of biosecurity risk associated with the goods.

Civil penalty provision

- (5) A person who is aware of the requirement to notify the Director of Biosecurity or the Director of Human Biosecurity of information under subsection (2) must comply with the requirement.

Civil penalty: 120 penalty units.

312D Information-gathering powers relating to prohibited goods, suspended goods and certain conditionally non-prohibited goods

- (1) A biosecurity officer may exercise the power under section 312E or 312F in relation to goods that were brought or imported into Australian territory if:
- (a) at the time the goods were brought or imported into Australian territory, the goods were:
 - (i) prohibited goods; or
 - (ii) suspended goods; or
 - (iii) conditionally non-prohibited goods; and
 - (b) in the case of conditionally non-prohibited goods—a biosecurity officer suspects, on reasonable grounds, that an applicable condition in relation to the goods has not been, or may not have been, complied with; and
 - (c) the goods have been released from biosecurity control.
- (2) A biosecurity officer may exercise the power under section 312E or 312F in relation to goods referred to in subsection (1) of this section for the purpose of assessing or managing the level of biosecurity risk associated with the goods.

312E Asking questions about goods

- (1) A biosecurity officer may require the person who brought or imported goods referred to in subsection 312D(1) into Australian

Schedule 1 Amendments

Part 1 Amendments commencing day after Royal Assent

territory, or a person in charge of such goods, to answer questions, or provide information in writing, in relation to the goods.

Note 1: A person may commit an offence or contravene a civil penalty provision if the person provides false or misleading information (see section 137.1 of the *Criminal Code* and section 532 of this Act).

Note 2: This section is not subject to the privilege against self-incrimination (see section 635).

Civil penalty provision

- (2) A person who is required to answer questions, or provide information in writing, under subsection (1) must comply with the requirement.

Civil penalty: 120 penalty units.

312F Requiring documents relating to goods to be produced

- (1) A biosecurity officer may require the person who brought or imported goods referred to in subsection 312D(1) into Australian territory, or a person in charge of such goods, to produce to the biosecurity officer specified documents in relation to the goods that a biosecurity officer reasonably suspects are in the custody or control of the person.

Note 1: A person may commit an offence or contravene a civil penalty provision if the person provides false or misleading documents (see section 137.2 of the *Criminal Code* and section 533 of this Act).

Note 2: This section is not subject to the privilege against self-incrimination (see section 635).

- (2) A biosecurity officer:
- (a) may make copies of, or take extracts from, a document produced under subsection (1); and
 - (b) for that purpose, may remove the document from the place at which it was produced.

Civil penalty provision

- (3) A person who is required to produce documents under subsection (1) must comply with the requirement.

Civil penalty: 120 penalty units.

8 Subsection 465(6) (heading)

Repeal the heading, substitute:

Cessation of biosecurity response zone determination

9 Subsection 465(6)

After “biosecurity response zone”, insert “determination”.

10 Subsection 542(3) (table item 1)

Repeal the item.

11 After subparagraph 580(2)(a)(iv)

Insert:

(iva) the National Focal Point; or

12 Paragraph 635(1)(e)

After “sections”, insert “312B, 312C, 312E, 312F,”.

Part 2—Amendments commencing day to be proclaimed

Biosecurity Act 2015

13 Section 9 (definition of *human remains*)

Repeal the definition, substitute:

human remains means the remains of all or any part of a deceased human's body, but does not include:

- (a) the cremated remains of a deceased human's body; or
- (b) hair, teeth or bones of a deceased human's body that have been separated from the deceased human's body or a part of the deceased human's body.

Schedule 2—Repeals

Quarantine (Validation of Fees) Act 1985

1 The whole of the Act

Repeal the Act.

*[Minister's second reading speech made in—
House of Representatives on 28 March 2018
Senate on 27 June 2018]*

(61/18)

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2018*

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