

## EXPLANATORY STATEMENT

### *Biosecurity Act 2015*

#### ***Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) (Emergency Requirements—High Risk Country Travel Pause) Determination 2021***

Subsection 477(1) of the *Biosecurity Act 2015* (the Act) provides that during a human biosecurity emergency period the Minister for Health may determine any requirement that he or she is satisfied is necessary:

- to prevent or control the entry into, or the emergence, establishment or spread of a listed human disease in Australian territory or a part of Australian territory;
- to prevent or control the spread of the listed human disease to another country; or
- to give effect to a recommendation made to the Health Minister by the World Health Organization (WHO) under Part III of the International Health Regulations in relation to the listed human disease.

On 18 March 2020, the Governor-General declared that a human biosecurity emergency exists regarding the listed human disease ‘human coronavirus with pandemic potential’ (COVID-19) (section 475 of the Act).

#### **Purpose**

The *Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) (Emergency Requirements—High Risk Country Travel Pause) Determination 2021* (the Determination) requires passengers on a relevant international flight not to enter Australian territory at a landing place if the person has been in India within 14 days of the day the flight was scheduled to commence.

The Determination to temporarily restrict entry to Australia for people who have been in India in the last 14 days reflects the latest health advice that there is a high likelihood of COVID-19 cases arriving in Australia via a person travelling from India, or who has been in India in the last 14 days.

India has been identified as a high risk country due to the significant increase in COVID-19 positive case numbers in travellers to Australia from India. The Determination protects the quarantine and health resources needed to prevent and control the entry, and the emergence, establishment or spread of COVID-19 into Australian territory or a part of Australian territory. The measures maintain the integrity of Australia’s quarantine system and allow the system to recover capacity, which is a critical intervention in preventing and managing the spread of COVID-19.

The Determination commences on 3 May 2021. The Determination remains in force until the start of 15 May 2021, unless it is revoked earlier.

On the basis of the above, the Minister for Health is satisfied that the Determination is necessary to prevent or control the further entry into, or the emergence, establishment or spread of COVID-19 into Australian territory or a part of Australian territory.

## **Background**

On 5 January 2020, the WHO notified Member States under the *International Health Regulations (2005)* (IHR) of an outbreak of pneumonia of unknown cause in Wuhan city, China. On 21 January 2020 ‘human coronavirus with pandemic potential’ became a ‘listed human disease’ by legislative instrument made by the Director of Human Biosecurity.

On 30 January 2020, the outbreak was declared by the WHO International Regulations Emergency Committee to constitute a Public Health Emergency of International Concern.

On 11 February 2020, the WHO announced that the International Committee on Taxonomy of Viruses named the pathogen virus ‘severe acute respiratory syndrome coronavirus (SARS-CoV-2)’. The international name given by WHO to the disease caused by SARS-CoV-2 is Coronavirus disease 2019 (COVID-19). On 11 March 2020, the WHO declared the outbreak of COVID-19 a pandemic.

### *Emergency requirements and directions*

An emergency requirement is a non-disallowable legislative instrument (subsection 477(2)). The Act provides for the Determination to be non-disallowable to ensure that the Commonwealth is able to take the urgent action necessary to manage a nationally significant threat or harm to Australia’s human health. The Minister for Health makes emergency requirements or gives directions personally (section 474).

The requirements that the Minister for Health may determine under section 477 of the Act include, but are not limited to: requirements that apply to persons, goods or conveyances when entering or leaving specified places; requirements that restrict or prevent the movement of persons, goods or conveyances in or between specified places; and requirements for specified places to be evacuated (subsection 477(3)).

Requirements determined under subsection 477(1) apply despite any provision of any other Australian law (subsection 477(5)), with the potential consequence that a person who acts in accordance with a requirement may be protected from criminal liability that would otherwise attach to a person’s required actions under State, Territory or Commonwealth law.

The Australian Government has established protocols for the exercise of emergency powers under the Act to ensure that the emergency powers are only used where necessary to protect the health of Australians, based on expert advice and following appropriate consultation.

A provision-by-provision description of the Determination is contained in the Attachment.

**Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) (Emergency Requirements—High Risk Country Travel Pause) Determination 2021**

**Part 1 - Preliminary**

**1 Name**

Section 1 provides that the instrument is the *Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) (Emergency Requirements—High Risk Country Travel Pause) Determination 2021*.

**2 Commencement**

Section 2 provides that the instrument commences 3 May 2021.

**3 Authority**

Section 3 provides that the instrument is made under subsection 477(1) of the *Biosecurity Act 2015*.

**4 Definitions**

Section 4 provides that a number of expressions used in this instrument are defined in the *Biosecurity Act 2015*. Section 4 also provides definitions for a number of terms used in the instrument.

**5 Repeal**

Section 5 provides that this instrument is repealed at the start of 15 May 2021.

**Part 2 – Requirements**

**6 Requirements not to enter Australian territory**

Section 6 provides that a person who is a passenger on a relevant international flight must not enter Australian territory at a landing place if the person has been in India within 14 days before the day the flight was scheduled to commence, unless an exemption set out in section 7 applies to the person.

**7 Exemptions – general**

Section 7 provides exemptions from the requirements not to enter Australian territory. Limited exemptions are provided for: crew of an aircraft or vessel, safety and maintenance workers; persons engaged in the day-to-day conduct of inbound and outbound freight; persons travelling on official government business, diplomats and their families; and members of an Australia Medical Assistance Team.