



Biosecurity (Human Health) Regulation 2016

made under the

Biosecurity Act 2015

Compilation No. 2

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About this compilation

This compilation

This is a compilation of the *Biosecurity (Human Health) Regulation 2016* that shows the text of the law as amended and in force on 12 October 2018 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

Contents

Part 1—Preliminary	1
1 Name.....	1
3 Authority.....	1
4 Definitions	1
Part 2—Preventing risks to human health	3
5 Contact information that must be provided by operators of incoming or outgoing passenger aircraft or vessels.....	3
6 Exemption from pratique	3
7 Disinsection measures for incoming aircraft	4
Part 3—Managing risks to human health: human biosecurity control orders	5
8 Imposing human biosecurity control orders on individuals—contact information that may be required	5
9 Managing contacts with other individuals—contact information that may be required	5
10 Requirements for taking, storing, etc. body samples.....	6
Part 4—Quarantine signals	7
11 Quarantine signals.....	7
Part 5—Ship sanitation certification scheme	8
12 Ship sanitation certification scheme.....	8
13 Form of ship sanitation certificates	8
14 Assessing and managing sanitation health risks.....	8
15 Ship sanitation certification inspection	8
16 Determination of level of sanitation health risk	9
17 Issue of ship sanitation control exemption certificate	9
18 Issue of ship sanitation control certificate	10
19 Extension of ship sanitation certificates.....	11
20 Disclosure of protected information.....	11
Endnotes	13
Endnote 1—About the endnotes	13
Endnote 2—Abbreviation key	14
Endnote 3—Legislation history	15
Endnote 4—Amendment history	16

Part 1—Preliminary

1 Name

This is the *Biosecurity (Human Health) Regulation 2016*.

3 Authority

This instrument is made under the *Biosecurity Act 2015*.

4 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) biosecurity industry participant;
- (b) biosecurity measures;
- (c) incoming passenger aircraft or vessel;
- (d) International Health Regulations;
- (e) listed human disease;
- (f) operator;
- (g) outgoing passenger aircraft or vessel;
- (h) permissible purpose;
- (i) vessel.

In this instrument:

Act means the *Biosecurity Act 2015*.

Australian resident means an individual who lives in Australia and is:

- (a) an Australian citizen; or
- (b) the holder of a permanent visa (within the meaning of the *Migration Act 1958*).

contamination has the meaning given by Article 1 of the International Health Regulations.

declared port means a port declared by the Director of Human Biosecurity under subsection 256(1) of the Act.

Note: See the *Biosecurity (Ship Sanitation Certification Scheme—Ports) Declaration 2016*.

infection has the meaning given by Article 1 of the International Health Regulations.

International Code of Signals means the International Code of Signals adopted by the Inter-Governmental Maritime Consultative Organization and published by Her Majesty's Stationery Office in 1995, as amended and in force on 16 June 2016.

Note: The International Code of Signals is maintained by the International Maritime Organization (www.imo.org).

Section 4

non-commercial vessel means a vessel that is used, or is intended to be used, wholly for recreational purposes (whether or not crew are employed on the vessel).

overseas competent authority means an authority of a foreign country responsible for the implementation and application of health measures under the International Health Regulations.

reservoir has the meaning given by Article 1 of the International Health Regulations.

sanitation health risk means the likelihood of an event occurring that might:

- (a) cause harm to human health; and
- (b) pose an immediate and serious risk of a disease or pest spreading to another country.

ship sanitation certificate means:

- (a) a ship sanitation control certificate; or
- (b) a ship sanitation control exemption certificate.

ship sanitation certification inspection means an inspection of a vessel, for the purpose of the ship sanitation certification scheme, to determine the level of sanitation health risk associated with the vessel.

ship sanitation certification scheme means the scheme prescribed by Part 5 of this instrument.

ship sanitation control certificate means:

- (a) a ship sanitation control certificate issued by a biosecurity officer under section 18; or
- (b) a ship sanitation control certificate issued by an overseas competent authority.

ship sanitation control exemption certificate means:

- (a) a ship sanitation control exemption certificate issued by a biosecurity officer under section 17; or
- (b) a ship sanitation control exemption certificate issued by an overseas competent authority.

vector has the meaning given by Article 1 of the International Health Regulations.

Part 2—Preventing risks to human health

5 Contact information that must be provided by operators of incoming or outgoing passenger aircraft or vessels

- (1) For subsection 47(2) of the Act, the following contact information for an individual nominated by the operator of an incoming passenger aircraft or vessel, or an outgoing passenger aircraft or vessel, is prescribed:
- (a) the name of the operator;
 - (b) the operator's business address, being an address in Australia if the operator has a business address in Australia;
 - (c) the name and title of the individual;
 - (d) the telephone number and email address for the individual;
 - (e) the name and title of another individual nominated by the operator to be used if the individual referred to in paragraph (c) is not able to be contacted;
 - (f) the telephone number and email address for the other individual referred to in paragraph (e).

Note: The operator must provide this information to the Director of Human Biosecurity (see subsection 47(2) of the Act).

- (2) The operator must ensure that any change to the contact information is provided to the Director of Human Biosecurity within 5 working days of the change occurring.

Exemption

- (3) The operator of an incoming passenger aircraft or vessel, or an outgoing passenger aircraft or vessel, is exempt from subsection 47(2) of the Act in relation to an actual or intended movement of the aircraft or vessel described in item 7, 8, 10 or 11 of the table in section 5 of the *Biosecurity (Movements between Parts of Australian Territory) Declaration 2016*.

Note: Subsection (3) is made for the purposes of section 616 of the Act which provides that the regulations may exempt any persons, goods or conveyances from provisions of the Act.

6 Exemption from pratique

The operator of an incoming aircraft or vessel is exempt from sections 48 and 49 of the Act in relation to an actual or intended movement of the aircraft or vessel described in item 7 or 8 of the table in section 5 of the *Biosecurity (Movements between Parts of Australian Territory) Declaration 2016*.

Note: This section is made for the purposes of section 616 of the Act which provides that the regulations may exempt any persons, goods or conveyances from provisions of the Act.

Section 7

7 Disinsection measures for incoming aircraft

- (1) For section 204A of the Act, the operator of an incoming aircraft must take measures (*disinsection measures*) to control or destroy, by treating the aircraft, insect vectors of human diseases that:
 - (a) have the potential to cause, directly or indirectly, a listed human disease or any other human disease; and
 - (b) may exist in or on:
 - (i) the aircraft; or
 - (ii) goods in or on the aircraft.
- (2) The treatment must be carried out in a manner, and at a time or within a period, approved by the Director of Human Biosecurity.

Exemptions

- (3) The operator of an incoming aircraft is not required to comply with subsections (1) and (2) in relation to an actual or intended movement of the aircraft, or goods in or on the aircraft, described in item 7, 8, 9, 10 or 11 of the table in section 5 of the *Biosecurity (Movements between Parts of Australian Territory) Declaration 2016*.
- (4) The operator of an incoming aircraft is not required to comply with subsections (1) and (2) in relation to the aircraft if:
 - (a) the level of biosecurity risk associated with the aircraft has been assessed as acceptable by a human biosecurity officer who is an officer or employee of the Health Department; and
 - (b) the operator of the aircraft has been notified of that assessment.

Part 3—Managing risks to human health: human biosecurity control orders

8 Imposing human biosecurity control orders on individuals—contact information that may be required

For subsection 69(1) of the Act, the following contact information is prescribed for an individual on whom an officer intends to impose a human biosecurity control order:

- (a) the individual's name;
- (b) the individual's date of birth and sex;
- (c) the individual's passport number;
- (d) the individual's country of residence;
- (e) a telephone number on which the individual can be contacted while in Australian territory;
- (f) if the individual is an Australian resident—the individual's residential address;
- (g) if the individual is not an Australian resident:
 - (i) the individual's residential address while in Australian territory; and
 - (ii) the date that the individual intends to depart from Australian territory.

9 Managing contacts with other individuals—contact information that may be required

For section 85 of the Act, the following contact information is prescribed for an individual (the *other individual*) with whom an individual has been, or will be, in close proximity, and in relation to whom a human biosecurity control order is in force:

- (a) the other individual's name;
- (b) the other individual's date of birth and sex;
- (c) the other individual's passport number;
- (d) the other individual's country of residence;
- (e) a telephone number on which the other individual can be contacted while in Australian territory;
- (f) if the other individual is an Australian resident—the other individual's residential address;
- (g) if the other individual is not an Australian resident:
 - (i) the other individual's residential address while in Australian territory; and
 - (ii) the date that the other individual intends to depart from Australian territory.

Section 10

10 Requirements for taking, storing, etc. body samples

- (1) For subsection 91(3) of the Act, this section prescribes requirements for taking, storing, transporting, labelling and using body samples provided under subsection 91(2) of the Act.
- (2) The body samples must be taken in a manner consistent with appropriate medical standards.
- (3) The body samples must be stored, transported, labelled and used in a manner consistent with appropriate professional standards that are relevant to managing the risks to human health of listed human diseases.

Person must comply with requirements

- (4) A person contravenes this subsection if:
 - (a) the person is required to comply with a requirement in subsection (2) or (3) in relation to a body sample; and
 - (b) the person does not comply with the requirement.

Fault-based offence

- (5) A person commits an offence if the person contravenes subsection (4).

Penalty: 50 penalty units.

Civil penalty provision

- (6) A person is liable to a civil penalty if the person contravenes subsection (4).

Civil penalty: 50 penalty units.

Part 4—Quarantine signals

11 Quarantine signals

- (1) For subsection 221(2) of the Act, this section prescribes:
 - (a) the quarantine signals; and
 - (b) the circumstances in which the quarantine signals must be displayed on a vessel within Australian territory; and
 - (c) the manner in which the quarantine signals must be displayed.

Quarantine signals during daylight

- (2) The quarantine signal during daylight for a vessel that is not in a class specified for the purposes of paragraph 49(1)(a) of the Act is the flag signal for the letter Q in the International Code of Signals.
- (3) The quarantine signal during daylight for a vessel that is in a class specified for the purposes of paragraph 49(1)(a) of the Act is the 2-flag signal for the letters QQ in the International Code of Signals.
- (4) A quarantine signal referred to in subsection (2) or (3) must be displayed:
 - (a) at the masthead of the vessel; or
 - (b) at another position from which the signal can be seen from any point outside the vessel.

Quarantine signals other than during daylight

- (5) The quarantine signal other than during daylight for a vessel that is in a class specified for the purposes of paragraph 49(1)(a) of the Act is a red light displayed not more than 2 metres above a white light.
- (6) The lights referred to in subsection (5) must be:
 - (a) displayed on the vessel in a position as nearly as practicable amidships; and
 - (b) visible on a clear night for 2 nautical miles in every direction.

Note 1: Other than during daylight a quarantine signal is not required for a vessel that is not in a class specified for the purposes of paragraph 49(1)(a) of the Act.

Note 2: For classes of vessels specified for the purpose of paragraph 49(1)(a) of the Act, see the *Biosecurity (Negative Pratique) Instrument 2016*.

Part 5—Ship sanitation certification scheme

12 Ship sanitation certification scheme

For section 255 of the Act, this Part prescribes a ship sanitation certification scheme for vessels other than the following:

- (a) non-commercial vessels;
- (b) a vessel that is at a declared port in a part (the ***destination part***) of Australian territory specified in column 2 of item 7, 8, 10 or 11 (the ***relevant item***) of the table in section 5 of the *Biosecurity (Movements between Parts of Australian Territory) Declaration 2016* after the vessel entered the destination part in the course of a voyage from a part of Australian territory specified in column 1 of the relevant item;
- (c) a vessel that is at a declared port in a part of Australian territory specified in column 1 of item 7, 8, 10 or 11 (the ***relevant item***) of the table in section 5 of the *Biosecurity (Movements between Parts of Australian Territory) Declaration 2016* and intends to move to a part of Australian territory specified in column 2 of the relevant item.

13 Form of ship sanitation certificates

- (1) The Director of Human Biosecurity must approve:
 - (a) a form for ship sanitation control exemption certificates; and
 - (b) a form for ship sanitation control certificates.
- (2) The forms must be consistent with the model form set out in Annex 3 to the International Health Regulations.

14 Assessing and managing sanitation health risks

Section 257 of the Act applies to a vessel at a declared port if any of the following circumstances exist:

- (a) a ship sanitation certificate is not in force for the vessel;
- (b) the operator of the vessel has requested that a ship sanitation certification inspection of the vessel be conducted;
- (c) a biosecurity officer finds evidence of a sanitation health risk associated with the vessel.

Note: Section 257 of the Act provides for certain provisions of the Act relating to assessing and managing sanitation health risks to apply, with modifications, in relation to the vessel.

15 Ship sanitation certification inspection

- (1) A biosecurity officer must conduct a ship sanitation certification inspection of a vessel if:
 - (a) the vessel is at a declared port; and

- (b) either:
 - (i) a ship sanitation certificate is not in force for the vessel; or
 - (ii) a biosecurity officer finds evidence of a sanitation health risk associated with the vessel.
- (2) A biosecurity officer may conduct a ship sanitation certification inspection of a vessel at a declared port if:
 - (a) the operator of the vessel requests that a ship sanitation certification inspection of the vessel be conducted; and
 - (b) it is practicable for the vessel to be inspected at the port.

Note 1: If a ship sanitation certificate is in force for the vessel, but it is not practicable for the vessel to be inspected at the port, the operator of the vessel may request that the certificate be extended (see section 19).

Note 2: Division 4 of Part 2 of Chapter 4 of the Act, and certain other provisions of the Act, apply in relation to the vessel (see section 14 of this Part and section 257 of the Act). Under that Division, a biosecurity officer may secure the vessel, ask questions, require documents to be produced or affix a biosecurity control notice to the vessel.

16 Determination of level of sanitation health risk

- (1) After conducting a ship sanitation certification inspection of a vessel, a biosecurity officer must determine whether the level of sanitation health risk associated with the vessel is acceptable or unacceptable.
- (2) The biosecurity officer must determine that the level of sanitation health risk associated with the vessel is acceptable if:
 - (a) the officer is satisfied that the vessel is free from infection and contamination, including vectors and reservoirs; and
 - (b) the officer does not have evidence (for example, sources of infection and contamination), of a sanitation health risk associated with the vessel.
- (3) The biosecurity officer must determine that the level of sanitation health risk associated with the vessel is unacceptable if:
 - (a) the officer is not satisfied that the vessel is free from infection and contamination, including vectors and reservoirs; or
 - (b) the officer has information, based on evidence (for example, sources of infection and contamination), of a sanitation health risk associated with the vessel.

17 Issue of ship sanitation control exemption certificate

- (1) If:
 - (a) a biosecurity officer conducts a ship sanitation certification inspection of a vessel; and
 - (b) the officer determines that the level of sanitation health risk associated with the vessel is acceptable;
 the officer must issue the vessel with a ship sanitation control exemption certificate.

Section 18

- (2) A ship sanitation control exemption certificate issued under subsection (1) must be in the form approved under section 13.
- (3) Subject to subsection (4), a ship sanitation control exemption certificate is in force for 6 months beginning on the day it is issued.
- (4) A ship sanitation control exemption certificate ceases to be in force for a vessel if a ship sanitation control certificate is issued for the vessel.

18 Issue of ship sanitation control certificate

- (1) This section applies if:
 - (a) a biosecurity officer conducts a ship sanitation certification inspection of a vessel; and
 - (b) the officer determines that the level of sanitation health risk associated with the vessel is unacceptable.

Note: Division 5 of Part 2 of Chapter 4 of the Act, and certain other provisions of the Act, apply in relation to the vessel (see section 14 of this Part and section 257 of the Act). Under that Division, a biosecurity officer may require biosecurity measures to be taken in relation to the vessel.

- (2) A biosecurity officer must issue a ship sanitation control certificate for the vessel if:
 - (a) the officer is satisfied that:
 - (i) any treatment or other biosecurity measures required to be taken in relation to the vessel under Division 5 of Part 2 of Chapter 4 of the Act have been taken in accordance with any requirements under that Division; and
 - (ii) on completion of any such treatment or other biosecurity measures, the level of sanitation health risk associated with the vessel is acceptable; or
 - (b) it is not practicable for any treatment or other biosecurity measures to be taken in relation to the vessel before the vessel leaves Australian territory.
- (3) If a ship sanitation control certificate is issued for a vessel under paragraph (2)(a), it must include the following information:
 - (a) the evidence used, following the ship sanitation certification inspection, to determine that the level of sanitation health risk associated with the vessel was unacceptable;
 - (b) details of any treatment or other biosecurity measures that were taken in relation to the vessel following the ship sanitation certification inspection.
- (4) If a ship sanitation control certificate is issued for a vessel under paragraph (2)(b):
 - (a) the certificate must include the following information:
 - (i) the evidence used, following the ship sanitation certification inspection, to determine that the level of sanitation health risk associated with the vessel was unacceptable;

Section 19

- (ii) details of any treatment or other biosecurity measures required to be taken in relation to the vessel; and
 - (b) a biosecurity officer must inform the overseas competent authority, at the next known port outside Australian territory that the vessel intends to enter, of any treatment or other biosecurity measures required to be taken in relation to the vessel.
- (5) A ship sanitation control certificate issued under subsection (2) must be in the form approved under section 13.
- (6) A ship sanitation control certificate is in force for 6 months beginning on the day it is issued.
- (7) A ship sanitation control certificate ceases to be in force for a vessel if a ship sanitation control exemption certificate is issued for the vessel.
- (8) If a ship sanitation control exemption certificate ceases to be in force for a vessel under subsection 17(4) (because a ship sanitation control certificate is issued for the vessel), a biosecurity officer must note on the ship sanitation control exemption certificate that a ship sanitation control certificate has been issued for the vessel.

19 Extension of ship sanitation certificates

- (1) The operator of a vessel that is at a declared port may request that a ship sanitation certificate in force for the vessel be extended if it is not practicable for the vessel to be inspected at the port.
- (2) If a request to extend a ship sanitation certificate is made under subsection (1), a biosecurity officer may extend the certificate for a period of not more than 1 month after the date on which the certificate would otherwise cease to be in force.
- (3) However, a biosecurity officer must not extend a ship sanitation certificate if the certificate has previously been extended under this section or by an overseas competent authority.

20 Disclosure of protected information

- (1) A person may make a record of, disclose or otherwise use protected information if:
 - (a) the person makes the record, or discloses or uses the information, for a permissible purpose, in performing the person's functions or duties, or exercising the person's powers, under this Part; and
 - (b) in relation to a disclosure—the disclosure is to any of the following:
 - (i) a Commonwealth body;
 - (ii) a State or Territory body;
 - (iii) a biosecurity industry participant;
 - (iv) an overseas competent authority.

Section 20

- (2) For subsection (1), the following information is protected information:
- (a) evidence of a sanitation health risk associated with a vessel found during a ship sanitation certification inspection of the vessel;
 - (b) details of a ship sanitation certificate in force for a vessel;
 - (c) details of a vessel for which a ship sanitation certificate is not in force;
 - (d) any other information relating to the information referred to in paragraph (a), (b) or (c).
- (3) This section does not limit section 580 of the Act.

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnotes

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnote 3—Legislation history

Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
Biosecurity (Human Health) Regulation 2016	9 May 2016 (F2016L00719)	16 June 2016 (s 2(1) item 1)	
Biosecurity Amendment (Ballast Water and Other Measures) Regulations 2017	22 May 2017 (F2017L00571)	Sch 2: 23 May 2017 (s 2(1) item 3)	—
Biosecurity (Human Health) Amendment (Disinsection Exemption) Regulations 2018	11 Oct 2018 (F2018L01416)	12 Oct 2018 (s 2(1) item 1)	—

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Part 1	
s 2	rep LA s 48D
Part 2	
s 7	am F2017L00571; F2018L01416