

Biosecurity (Exposed Conveyances—Exceptions from Biosecurity Control) Determination 2016

I, Daryl Quinlivan, Director of Biosecurity, make the following determination.

Dated 24 May 2016

Daryl Quinlivan

Director of Biosecurity

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1 Name

This is the *Biosecurity (Exposed Conveyances—Exceptions from Biosecurity Control) Determination 2016*.

2 Commencement

(1) Each provision of this instrument 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. The whole of this instrument | At the same time as section 3 of the *Biosecurity Act 2015* commences. | 16 June 2016 |

Note: This table relates only to the provisions of this instrument as originally made.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

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

3 Authority

This instrument is made under subsection 192(6) of the *Biosecurity Act 2015*.

4 Definitions

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

(a) conveyance;

(b) exposed to;

(c) installation.

In this instrument:

***Act*** means the *Biosecurity Act 2015*.

***domestic goods*** means:

(a) goods that were released from biosecurity control under paragraph 162(1)(a), (b) or (c) of the Act; or

(b) goods that:

(i) were brought from a place in Australian territory; and

(ii) were not subject to biosecurity control at the time the goods were brought from Australian territory; and

(iii) were not goods in relation to which an exposed goods order was in force at the time the goods were brought from Australian territory.

***domestic person***:

(a) means a person who was brought from a place in Australian territory; and

(b) includes a person referred to in paragraph (a) who leaves a conveyance temporarily and returns to it.

***low‑risk goods*** means any of the following:

(a) fuel;

(b) petroleum;

(c) canisters of petroleum.

***petroleum*** means:

(a) any naturally occurring hydrocarbon, whether in a gaseous, liquid or solid state; or

(b) any naturally occurring mixture of hydrocarbons, whether in a gaseous, liquid or solid state; or

(c) any naturally occurring mixture of:

(i) one or more hydrocarbons, whether in a gaseous, liquid or solid state; and

(ii) one or more of the following, that is to say, hydrogen sulphide, nitrogen, helium and carbon dioxide;

and includes:

(d) any petroleum as defined by paragraph (a), (b) or (c) that has been returned to a natural reservoir; and

(e) any petroleum as defined by paragraph (a), (b), (c) or (d), where either or both of the following has occurred:

(i) one or more things have been added;

(ii) one or more things have been wholly or partly removed.

***petroleum industry vessel*** means a vessel (other than an installation) that is, or is to be, used wholly or principally for, or in connection with:

(a) exploring for, or exploiting, petroleum with equipment on, or forming part of, the vessel; or

(b) operations or activities associated with, or incidental to, activities of the kind referred to in paragraph (a).

5 Purpose of this instrument

This instrument specifies circumstances in which section 192 does not apply in relation to a conveyance that is exposed to another conveyance as referred to in subparagraph 192(1)(a)(i) or (ii) or paragraph 192(1)(b) of the Act.

Note: A conveyance that is exposed to one or more conveyances as referred to in subparagraph 192(1)(a)(i) or (ii) or paragraph 192(1)(b) of the Act will become subject to biosecurity control because of subsection 192(2) or (3) of the Act, unless section 192 of the Act does not apply in relation to the conveyance under this instrument (see subsection 192(6) of the Act).

6 Circumstances in which exposed conveyance does not become subject to biosecurity control—general

(1) Section 192 of the Act does not apply in relation to a conveyance (the ***exposed conveyance***) that is exposed to another conveyance (the ***second conveyance***) as referred to in section 5 of this instrument if the following circumstances apply:

(a) no contamination, infestation or infection is, or was, transferred from the second conveyance to the exposed conveyance;

(b) no pests (alive or dead) are, or were, transferred from the second conveyance to the exposed conveyance;

(c) no person on board the exposed conveyance is, or was, exposed to:

(i) an animal or a plant on the second conveyance that is infected with a disease; or

(ii) an animal or a plant on the second conveyance that has died from a disease;

(d) if the exposed conveyance is an aircraft or a vessel:

(i) no human remains are on board the aircraft or vessel at any time it is in Australian territory; and

(ii) no person on board the aircraft or vessel has signs or symptoms of a listed human disease at any time the aircraft or vessel is in Australian territory;

(e) if the second conveyance is not an installation or a petroleum industry vessel:

(i) only domestic persons (including any domestic persons who transferred from the second conveyance to the exposed conveyance) intend to disembark, or disembark, in Australian territory; and

(ii) only low‑risk goods or domestic goods (including any low‑risk goods or domestic goods that were transferred from the second conveyance to the exposed conveyance) are on board the exposed conveyance at any time it is in Australian territory;

(f) if the second conveyance is an installation or a petroleum industry vessel—any of the following circumstances applies:

(i) no person who transferred from the second conveyance to the exposed conveyance intends to disembark, or disembarks, in Australian territory, and no goods (other than low‑risk goods) that were transferred from the second conveyance to the exposed conveyance are on board the exposed conveyance at any time it is in Australian territory;

(ii) the level of biosecurity risk associated with the second conveyance is low within the meaning of subsection (2) or (3);

(iii) biosecurity risks associated with the second conveyance are managed in accordance with an approved arrangement covering the operator of the second conveyance in relation to the operations of the second conveyance, and the end of journey requirements provided in subsection (4), (5), (6) or (7) are met in relation to the exposed conveyance.

Circumstances in which level of biosecurity risk associated with second conveyance is low

(2) The ***level of biosecurity risk associated with the second conveyance is low*** if:

(a) only domestic persons have ever been on board the second conveyance; and

(b) only the following kinds of goods have ever been on board the second conveyance:

(i) domestic goods;

(ii) low‑risk goods;

(iii) goods that are to be deployed to the sea or the seabed (including goods that have been brought on board the second conveyance for the purpose of being deployed to the sea or the seabed);

(iv) goods that are in the possession of a domestic person who left the second conveyance temporarily and later returned to it, being goods that were in the possession of the person at the time the person left the second conveyance.

(3) The ***level of biosecurity risk associated with the second conveyance is low*** if:

(a) the Director of Biosecurity is satisfied, on the basis of information provided by the person in charge or the operator of the second conveyance, that the level of biosecurity risk associated with the second conveyance was acceptable before the exposure to the exposed conveyance occurred; and

(b) during the period between the Director of Biosecurity becoming satisfied as referred to in paragraph (a) and the exposure occurring:

(i) no persons boarded the second conveyance or only domestic persons boarded the second conveyance; and

(ii) no goods were brought on board the second conveyance or only goods of a kind referred to in paragraph (2)(b) were brought on board the second conveyance.

End of journey requirements in relation to exposed conveyance that is an aircraft

(4) If:

(a) the exposed conveyance is an aircraft; and

(b) the aircraft’s journey ends, or is intended to end, at a first point of entry for the aircraft; and

(c) there is a biosecurity entry point for the aircraft at the first point of entry;

the end of journey requirements are that the aircraft is brought to that biosecurity entry point as soon as practicable after the aircraft arrives at the first point of entry.

Note: See section 238 of the Act.

(5) If:

(a) the exposed conveyance is an aircraft; and

(b) the aircraft’s journey ends, or is intended to end, at a landing place in Australian territory other than a first point of entry for the aircraft;

the end of journey requirements are that:

(c) permission has been given under subsection 239(2) of the Act for the aircraft to land at that landing place, and any conditions of the permission have been, or are intended to be, complied with; or

(d) a direction has been given under paragraph 240(1)(a) or 242(1)(a) of the Act requiring the aircraft to land at that landing place.

End of journey requirements in relation to exposed conveyance that is a vessel

(6) If:

(a) the exposed conveyance is a vessel; and

(b) the vessel’s journey ends, or is intended to end, at a first point of entry for the vessel; and

(c) there is a biosecurity entry point for the vessel at the first point of entry;

the end of journey requirements are that the vessel is brought to that biosecurity entry point as soon as practicable after the vessel arrives at the first point of entry.

Note: See section 246 of the Act.

(7) If:

(a) the exposed conveyance is a vessel; and

(b) the vessel’s journey ends, or is intended to end, at a port in Australian territory other than a first point of entry for the vessel;

the end of journey requirements are that:

(c) permission has been given under subsection 247(2) of the Act for the vessel to be moored at that port, and any conditions of the permission have been, or are intended to be, complied with; or

(d) a direction has been given under paragraph 248(1)(a) or 250(1)(a) of the Act requiring the vessel to be moored at that port.

Exception

(8) This section does not apply in relation to a conveyance that is exposed to a protected zone vessel in the protected zone area.

Note 1: ***Protected zone area*** and ***protected zone vessel*** are defined in subsection 617(4) of the Act.

Note 2: Section 7 of this instrument deals with a conveyance that is exposed to a protected zone vessel in the protected zone area.

7 Circumstances in which exposed conveyance does not become subject to biosecurity control—exposure to protected zone vessel in protected zone area

Section 192 of the Act does not apply in relation to a conveyance that is exposed to a protected zone vessel in the protected zone area, as referred to in section 5 of this instrument.

Note: ***Protected zone area*** and ***protected zone vessel*** are defined in subsection 617(4) of the Act.