



Biosecurity (Managing Human Remains) Instrument 2016

made under subsections 110(2) and 112(1) of the

Biosecurity Act 2015

Compilation No. 1

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Prepared by the Office of Parliamentary Counsel, Canberra

About this compilation

This compilation

This is a compilation of the *Biosecurity (Managing Human Remains) Instrument 2016* that shows the text of the law as amended and in force on 28 August 2019 (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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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1 Name

This is the *Biosecurity (Managing Human Remains) Instrument 2016*.

3 Authority

This instrument is made under subsections 110(2) and 112(1) 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) Australian territory;
- (b) human remains.

In this instrument:

Act means the *Biosecurity Act 2015*.

hermetically-sealed container means an airtight container that bodily fluids cannot leak from when sealed.

human biosecurity official has the same meaning as in the *Biosecurity Regulation 2016*.

medical practitioner means a person registered or licensed as a medical practitioner under an Australian or foreign law that provides for the registration or licensing of medical practitioners.

5 Human remains brought into Australian territory

- (1) For subsection 110(2) of the Act, the following table specifies:
 - (a) classes of human remains; and
 - (b) requirements for:
 - (i) bringing human remains into Australian territory; or
 - (ii) managing human remains in those classes after bringing them into Australian territory.

Classes of human remains and requirements for bringing human remains into Australian territory and managing them		
Item	Column 1 Classes of human remains	Column 2 Requirements
1	Deceased humans' bodies or parts of deceased humans' bodies intended to be buried or cremated	All of the following: (a) either: (i) the body or part of the body must be brought into Australian territory accompanied by an official copy of an official certificate in which the cause of death is specified, or by an official

Classes of human remains and requirements for bringing human remains into Australian territory and managing them		
Item	Column 1 Classes of human remains	Column 2 Requirements
1	Deceased humans' bodies or parts of deceased humans' bodies intended to be buried or cremated	All of the following: (a) either: (i) the body or part of the body must be brought into Australian territory accompanied by an official copy of an official certificate in which the cause of death is specified, or by an official

Section 5

Classes of human remains and requirements for bringing human remains into Australian territory and managing them		
Item	Column 1 Classes of human remains	Column 2 Requirements
		<p>extract from an entry in an official register in which the cause of death is specified, or by a certificate from a medical practitioner in accordance with subsection (2), or (if applicable) by an official copy of an official embalming certificate; or</p> <p>(ii) bringing the body or part of the body into Australian territory must be permitted under subsection (4);</p> <p>(b) the body or part of the body must be brought into Australian territory in a hermetically-sealed container;</p> <p>(c) each person bringing the body or part of the body into Australian territory must follow infection control procedures during the transportation, including appropriate use of personal protective equipment;</p> <p>(d) the body or part of the body must be transported from the first landing place or port in Australian territory where the body or part of the body is brought in a hermetically-sealed container and under the direction or control of a coroner or a funeral director;</p> <p>(e) each person handling the body or part of the body while it is in Australian territory must follow infection control procedures, including appropriate use of personal protective equipment</p>
2	Deceased humans' bodies or parts of deceased humans' bodies intended to be used for scientific or research purposes	<p>All of the following:</p> <p>(a) either:</p> <p>(i) the body or part of the body must be brought into Australian territory accompanied by a written declaration from the person bringing in the body or part of the body in accordance with subsection (3); or</p> <p>(ii) bringing the body or part of the body into Australian territory must be permitted under subsection (4);</p> <p>(b) the body or part of the body must be brought into Australian territory in a hermetically-sealed container;</p> <p>(c) each person bringing the body or part of the body into Australian territory must follow infection control procedures during the transportation, including appropriate use of personal protective equipment;</p> <p>(d) each person handling the body or part of the body while it is in Australian territory must follow infection control procedures, including appropriate use of personal protective equipment;</p> <p>(e) the body or part of the body must be stored in an appropriate containment facility while it is in</p>

Classes of human remains and requirements for bringing human remains into Australian territory and managing them

Item	Column 1 Classes of human remains	Column 2 Requirements
		Australian territory
3	Deceased humans' bodies or parts of deceased humans' bodies intended to be used for a purpose not covered by table item 1 or 2 (for example, for display or use as curios)	Permission to bring the body or part of the body into Australian territory must be given by a human biosecurity official: (a) before the body or part of the body is brought into Australian territory; or (b) at the first landing place or port in Australian territory where the body or part of the body is brought

- Note 1: Human remains do not include the cremated remains of a deceased human's body or 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 (see the definition of **human remains** in section 9 of the Act). There are no requirements under the Act for bringing the cremated remains of a deceased human's body into Australian territory or managing such remains after bringing them into Australian territory.
- Note 2: 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 must not be brought or imported into Australian territory unless conditions specified in determinations made under subsection 174(1) of the Act are complied with.
- Note 3: An individual may also be required to answer questions or provide written information in relation to human remains (see paragraph 56(1)(c) of the Act).
- Note 4: A direction for managing specified human remains may also be given to a person responsible for the human remains (see section 111 of the Act).

Requirements for certificate from medical practitioner

- (2) For subparagraph (a)(i) of column 2 of item 1 of the table in subsection (1), the certificate must state:
- (a) if the body or part of the body has, or had before death, signs or symptoms of a listed human disease—that fact and the listed human disease; or
 - (b) that the body or part of the body does not have, or did not before death have, signs or symptoms of a listed human disease.

Requirements for declaration from person bringing in body or part of body

- (3) For subparagraph (a)(i) of column 2 of item 2 of the table in subsection (1), the declaration must state:
- (a) that the body or part of the body has been donated for scientific or research purposes; and
 - (b) either:
 - (i) if the person is aware that the body or part of the body has, or had before death, signs or symptoms of a listed human disease—that fact and the listed human disease; or
 - (ii) that, as far as the person is aware, the body or part of the body does not have, or did not before death have, any signs or symptoms of a listed human disease.
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Section 6

Permission to bring body or part of body into Australian territory

- (4) Bringing a body or part of a body (including hair, teeth and bones) into Australian territory is permitted under this subsection if:
- (a) permission to bring the body or part of the body into Australian territory is given by a human biosecurity official before the body or part of the body is brought into Australian territory; or
 - (b) permission to bring the body or part of the body into Australian territory is given by a human biosecurity official at the first landing place or port in Australian territory where the body or part of the body is brought; or
 - (c) both of the following:
 - (i) permission (the ***interim permission***) is given by a biosecurity officer, at the first landing place or port in Australian territory where the body or part of the body is brought, for the body or part of the body to be transported from that landing place or port to an appropriate place under the control of an appropriate person;
 - (ii) within 24 hours after the interim permission is given, permission to bring the body or part of the body into Australian territory is given by a human biosecurity official.

6 Individuals who have died in transit or on arrival

For subsection 112(1) of the Act, the following table specifies requirements for classes of persons who bring into Australian territory, or who manage, the bodies of deceased individuals who die:

- (a) in transit before arriving in Australian territory; or
- (b) on arrival in Australian territory.

Requirements for individuals who have died in transit or on arrival		
Item	Column 1 Classes of persons	Column 2 Requirements
1	Biosecurity officers	<p>The biosecurity officer must:</p> <ul style="list-style-type: none">(a) identify any risk of a listed human disease entering, or emerging, establishing itself, or spreading in, Australian territory or a part of Australian territory as a result of the body of a deceased individual being brought into Australian territory; and(b) inform a human biosecurity official of any identified risk of a listed human disease entering, or emerging, establishing itself, or spreading in, Australian territory or a part of Australian territory as a result of the body being brought into Australian territory; and(c) follow infection control procedures, including appropriate use of personal protective equipment; and(d) take any other measures a human biosecurity official is satisfied are appropriate to prevent, or reduce the risk of, a listed human disease entering, or emerging, establishing itself, or spreading in, Australian territory or a part of

Requirements for individuals who have died in transit or on arrival		
Item	Column 1 Classes of persons	Column 2 Requirements
		Australian territory as a result of the body being brought into Australian territory
2	Persons other than biosecurity officers	<p>The person must:</p> <ul style="list-style-type: none"> (a) identify any risk of a listed human disease entering, or emerging, establishing itself, or spreading in, Australian territory or a part of Australian territory as a result of the body of a deceased individual being brought into Australian territory; and (b) follow infection control procedures, including appropriate use of personal protective equipment; and (c) take any other measures a human biosecurity official is satisfied are appropriate to prevent, or reduce the risk of, a listed human disease entering, or emerging, establishing itself, or spreading in, Australian territory or a part of Australian territory as a result of the body being brought into Australian territory
<p>Note 1: An individual may also be required to answer questions or provide written information in relation to an individual who has died in transit before arriving, or on arrival, in Australian territory (see paragraph 56(1)(c) of the Act).</p> <p>Note 2: A direction for managing specified human remains may also be given to a person responsible for the human remains (see section 111 of the Act).</p> <p>Note 3: An operator of an aircraft or vessel may also be required to give a report providing details of any individuals on board who have died during the flight or voyage (see Part 1 of Chapter 3 of the <i>Biosecurity Regulation 2016</i>).</p>		

Endnotes

Endnote 1—About the endnotes

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.

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

Endnotes

Endnote 3—Legislation history

Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
Biosecurity (Managing Human Remains) Instrument 2016	14 June 2016 (F2016L01024)	16 June 2016 (s 2(1) item 1)	
Biosecurity (Managing Human Remains) Amendment (Hair, Teeth and Bones) Instrument 2019	27 Aug 2019 (F2019L01109)	28 Aug 2019 (s 2(1) item 1)	—

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
s 2	rep LA s 48D
s 5	am F2019L01109