

EXPLANATORY STATEMENT

Biosecurity Act 2015

Biosecurity (Listed Human Diseases) Amendment Determination 2020

Authority

The *Biosecurity Act 2015* (the Act) provides the primary legislative means and a regulatory framework for the Australian Government to manage the risk of pests and diseases from entering Australian territory and causing harm to animal, plant and human health, the environment and the economy. The Act manages biosecurity risks – including the risk of listed human diseases – entering Australian territory, or emerging, establishing or spreading in Australian territory.

Subsection 42(1) of the Act provides that the Director of Human Biosecurity may determine, in writing, a human disease to be a listed human disease if the disease may be communicable and may cause significant harm to human health.

Purpose

The purpose of *Biosecurity (Listed Human Diseases) Amendment Determination 2020 (the instrument)* is to add human coronavirus with pandemic potential to the list of human diseases in this instrument. The disease is required to be listed in the instrument to allow human biosecurity measures under Chapter 2 of the Act to be imposed, thereby allowing Australia to manage and respond to biosecurity risks to human health caused by that virus.

Background

On 5 January 2020, the World Health Organization (WHO) notified Member States under the *International Health Regulations (2005)* (IHR) of an outbreak of pneumonia of unknown cause in Wuhan city, China. The cause of the outbreak has since been determined as a novel coronavirus.

Under the IHR, the WHO has recommended that health authorities work with travel, transport and tourism sectors to provide travellers with information to reduce the general risk of acute respiratory infections, including at points of entry and through conveyance operators.

All powers under Chapter Two of the Act require that the disease be a listed human disease for the power to apply. These powers include the ability to screen incoming passengers for signs and symptoms of a listed human disease, the ability to impose Human Biosecurity Control Orders on those who are suspected or confirmed as having a listed human disease and implementing further risk mitigation measures.

To enable compliance with the WHO's recommendations, and to implement additional border measures under the Act, it is necessary for human coronavirus with pandemic potential to be determined as a listed human disease. The inclusion of human coronavirus with pandemic potential enables application of border measures under the Act in order to manage this or other emerging coronaviruses and their potential for human to human transmission.

Consultation

Subsection 42(2) of the Act requires that before making a determination under section 42, the Director of Human Biosecurity must consult with the chief health officer (however described) for each State and Territory and the Director of Biosecurity.

The Director of Human Biosecurity consulted the States and Territories and the Director of Biosecurity. The Australian Health Protection Principal Committee and the Communicable Diseases Network Australia, comprising Chief Health Officers and communicable disease experts across state and territory governments, met via teleconference on 20 January 2020, and endorsed the addition of

human coronavirus with pandemic potential as a listed human disease.

The Director of Biosecurity, Mr Daryl Quinlivan, was also consulted in regards to the determination and on 21 January 2020 confirmed his support of the amendment.

The instrument commences on the day it is registered.

The instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.

A provision by provision description of the instrument is contained in Attachment 1.

ATTACHMENT 1

Provision by provision description of the *Biosecurity (Listed Human Diseases) Amendment Determination 2020*

1. Name

Section 1 provides that the name of the instrument is *Biosecurity (Listed Human Diseases) Amendment Determination 2020*.

2. Commencement

Section 2 provides that this legislative instrument commences on the day it is registered.

3. Authority

Section 3 specifies that this instrument is made under subsection 42(1) of the *Biosecurity Act 2015*.

4. Schedules

Section 4 provides that instruments included in the schedule to this instrument are amended or repealed as set out in the applicable items in the schedule.

Schedule 1 – Amendments

Item 1 of Schedule 1 provides that section 4 of the *Biosecurity (Listed Human Diseases) Determination 2016*, which is the list of Listed Human Diseases, is amended to include ‘human coronavirus with pandemic potential’ in that list.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Biosecurity (Listed Human Diseases) Amendment Determination 2020

This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The *Biosecurity (Listed Human Diseases) Amendment Determination 2020* adds ‘human coronavirus with pandemic potential’ as a listed human disease, and therefore enables the application of a range of measures under the *Biosecurity Act 2015*.

Human rights implications

This legislative instrument engages and is consistent with Article 12(1) of the International Covenant on Economic, Social and Cultural Rights by assisting with the progressive realisation by all appropriate means of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

This instrument provides the means of protecting public health in Australia through enabling the application of human biosecurity measures to manage the risk of human coronavirus with pandemic potential entering Australian territory, or emerging, establishing, or spreading in Australian territory or a part of Australian territory.

Conclusion

This legislative instrument is compatible with human rights because it promotes the human right to an adequate standard of living and the highest attainable standard of physical and mental health.

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