EXPLANATORY STATEMENT

*Biosecurity Act 2015*

*Biosecurity (Exit Requirements) Determination 2020*

The *Biosecurity Act 2015* (the Act) provides the primary legislative means and a regulatory framework for the Australian Government to manage the following:

* + 1. biosecurity risks;
    2. the risk of contagion of a listed human disease or any other infectious human disease;
    3. the risk of pests and diseases from entering Australian territory and causing harm to animal, plant and human health, the environment and the economy;
    4. biosecurity emergencies and human biosecurity emergencies.

The Act manages biosecurity risks – including the risk of listed human diseases – entering Australian territory, or emerging, establishing themselves, or spreading in Australian territory or a part of Australian territory. It also gives effect to Australia’s international rights and obligations, including under the International Health Regulations, the SPS Agreement, and the United Nations Convention on the Law of the Sea and the Biodiversity Convention.

Subsection 45(2) of the Act provides that the Health Minister may determine one or more requirements for individuals who are leaving Australian territory; or for operators of outgoing passenger aircrafts or vessels.

The purpose of this Determination is to set requirements for individuals or any class of individuals exiting Australian territory, to prevent a listed human disease from spreading to another country.

It is aimed at providing the means of protecting the public health in Australia’s neighbouring Pacific Island Countries and Timor-Leste through the prescription of requirements for individuals or any class of individuals leaving Australian territory, to prevent a listed human disease from entering, or establishing itself or spreading in those neighbouring countries.

This purpose engages and is consistent with Article 12 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.

Australia is a signatory to the World Health Organization (WHO) *International Health Regulations 2005* (IHR). Annex 1B of the IHR requires Member States to have the capacity to apply entry and exit requirements for arriving and departing travellers in response to public health risks and emergencies of international concern.

Consistent with the IHR, this Determination provides that individuals leaving Australia may be required to undergo a health screening for signs and symptoms of COVID-19. COVID-19 is a listed human disease under the Act.

This Determination specifies the destination countries for which exit screening of individuals applies. This list of countries is based on data regarding direct flights from Australia to Pacific Island countries and will be regularly reviewed, as appropriate.

During the development of this Determination, the Department of Health consulted with the Department of Foreign Affairs and Trade, the Department of Agriculture, Water and the Environment, the Office of Parliamentary Counsel, and state and territory health departments. These agencies have approved the determination of exit requirements, and are collaborating with the Department of Health on operational protocols for implementation where appropriate.

This Determination commences on the date it is registered.

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

**ATTACHMENT A**

**Details of the *Biosecurity (Exit Requirements) Determination 2020***

**Part 1- Preliminary**

Section 1 - Name

Section 1 states that the name of the Determination is *Biosecurity (Exit Requirements) Determination 2020*.

Section 2 - Commencement

Section 2 provides that the Determination commences the day after the instrument is registered.

Section 3 – Authority

Section 3 specifies that the Determination is made under subsection 45(2) the Act.

**Part 2 – Requirements relating to human coronavirus with pandemic potential**

Section 4 – Screening

Section 4 prescribes that the section applies to an individual leaving Australian territory on an aircraft if:

the individual is bound for any of the following countries:

(i) Cook Islands;

(ii) Fiji;

(iii) New Caledonia;

(iv) Papua New Guinea;

(v) Samoa;

(vi) Solomon Islands;

(vii) Timor Leste;

(viii) Tonga;

(ix) Vanuatu; and

(b) the aircraft is departing from any of the following landing places:

(i) Brisbane International Airport;

(ii) Cairns International Airport;

(iii) Darwin International Airport;

(iv) Gold Coast International Airport;

(v) Melbourne International Airport;

(vi) Sydney International Airport.

The individual must be screened by a biosecurity officer or a human biosecurity officer (whether by equipment or by being required to answer questions or provide information in writing) for the purpose of establishing whether the individual may be, or may have been, infected with human coronavirus with pandemic potential.

**Statement of Compatibility with Human Rights**

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

***Biosecurity (Exit Requirements) Determination 2020***

This Determination 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*.

Specifically, this Determination engages and is consistent with Article 12 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 Determination provides the means of protecting the public health in Australia’s neighbouring Pacific Island Countries and Timor-Leste through the prescription of requirements for individuals or any class of individuals leaving Australian territory, to prevent a listed human disease from entering, or establishing itself or spreading in, neighbouring countries.

Consistent with Australia’s obligations under the International Health Regulations, the Determination provides that individuals leaving Australia for Pacific Island Countries are required to undergo a health screening for signs and symptoms of COVID-19.

To ensure that the Determination remains up-to-date and proportionate to human health risks, the airports and list of countries for which exit screening applies will be regularly reviewed in consultation with relevant agencies, as appropriate.