



Biosecurity (Entry Requirements—Human Coronavirus with Pandemic Potential) Determination 2022

I, Greg Hunt, Minister for Health and Aged Care, make the following determination.

Dated 21 January 2022

Greg Hunt
Minister for Health and Aged Care

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Part 1—Preliminary

1 Name

This instrument is the *Biosecurity (Entry Requirements—Human Coronavirus with Pandemic Potential) Determination 2022*.

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	1 am (by legal time in the Australian Capital Territory) on 23 January 2022.	1 am (A.C.T.) 23 January 2022

Note: This table relates only to the provisions of this instrument as originally made.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 44(2) 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) Agriculture Department;
- (b) Australian territory;
- (c) Health Department;
- (d) landing place;
- (e) passenger.

In this instrument:

accepted COVID-19 vaccine means a COVID-19 vaccine:

- (a) that is registered goods within the meaning of the *Therapeutic Goods Act 1989*; or
- (b) that is recognised by the Therapeutic Goods Administration.

Act means the *Biosecurity Act 2015*.

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connecting traveller means an individual who undertakes one or more connecting flights in order to undertake a relevant international flight.

COVID-19 means the coronavirus known as COVID-19.

Emergency Requirements Determination means the *Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) (Emergency Requirements—Incoming International Flights) Determination 2021*.

Home Affairs Department means the Department administered by the Minister administering the *Australian Border Force Act 2015*.

Home Affairs SES employee means an SES employee in the Home Affairs Department.

NAAT test means a test that uses nucleic acid amplification technology as the testing method.

Note: For example, each of the following is a test that uses nucleic acid amplification technology as the testing method:

- (a) polymerase chain reaction test;
- (b) transcription mediated amplification test;
- (c) loop-mediated isothermal amplification test.

relevant international flight means a flight:

- (a) that commences outside Australian territory and is intended to arrive at a landing place in Australian territory; and
- (b) for which the scheduled departure time is at or after 1.01 am on 23 January 2022 in the place where the flight commences.

relevant official means any of the following:

- (a) a biosecurity officer;
- (b) a chief human biosecurity officer;
- (c) a human biosecurity officer;
- (d) an APS employee in the Agriculture Department;
- (e) an APS employee in the Home Affairs Department.

Therapeutic Goods Administration means that part of the Health Department known as the Therapeutic Goods Administration.

5 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Part 2—Statement requirements—passengers and crew

6 Passenger statements—various matters

- (1) This section applies to an individual who is entering Australian territory:
- (a) at a landing place in accordance with Division 2 of Part 4 of Chapter 4 of the Act; and
 - (b) as a passenger of an aircraft on a relevant international flight;
- unless an exemption for the purposes of this section was granted under paragraph 8(1)(a) for the flight before the flight commenced.

Ability to produce evidence of statement made before boarding

- (2) The individual must be able to produce, to a relevant official, evidence that, before the individual boarded the aircraft, the individual made a written statement:
- (a) using an electronic system maintained by the Home Affairs Department; or
 - (b) if exceptional circumstances prevented the individual from using an electronic system maintained by the Home Affairs Department—in paper form;
- that included the following (subject to subsections (3) to (5)):
- (c) the following information for the individual:
 - (i) name;
 - (ii) date of birth;
 - (iii) passport number;
 - (iv) phone number while in Australian territory;
 - (v) intended address while in Australian territory;
 - (vi) email address;
 - (vii) the flight number of the relevant international flight;
 - (d) a declaration setting out the individual's international travel history for the 14 days before the day the relevant international flight was scheduled to commence;
 - (e) a declaration that the individual is aware of:
 - (i) the quarantine and testing requirements relating to COVID-19 that apply in the State or Territory in which the landing place is located; and
 - (ii) the penalties for non-compliance with those requirements;
 - (f) a declaration that in the 3 days before the day the relevant international flight was scheduled to commence, the individual had not been exposed, without adequate personal protective precautions, to a person who tested positive for COVID-19 in that period;
 - (g) if the individual was more than 12 years and 3 months old on the day the relevant international flight was scheduled to commence—a declaration mentioned in subsection (6) (about vaccination status);

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- (h) if the statement was made in paper form—a declaration that exceptional circumstances prevented the individual from using an electronic system maintained by the Home Affairs Department.

Note: The following are examples of exceptional circumstances for paragraphs (2)(b) and (h):

- (a) the electronic system was not available to the individual;
 - (b) the electronic system was not available to the individual in a language that the individual understands.
- (3) Paragraph (2)(c), (d), (e), (f), (g) or (h) does not apply to the individual if, before the relevant international flight commenced:
 - (a) an exemption for the purposes of that paragraph was granted under paragraph 8(1)(b) for the flight; or
 - (b) an exemption for the purposes of that paragraph that applies to the individual was granted under section 9; or
 - (c) an exemption for the purposes of that paragraph was granted to the individual under section 10.
 - (4) Paragraphs (2)(d) and (e) do not apply to the individual if the relevant international flight is:
 - (a) an Australian Government facilitated flight; or
 - (b) an emergency medical evacuation flight.
 - (5) Paragraph (2)(f) does not apply to the individual if an exemption for the purposes of section 11 applies to the individual under paragraph 14(1)(d) or (e).
 - (6) For the purposes of paragraph (2)(g), the declaration is a declaration of which of the following paragraphs apply to the individual:
 - (a) the individual:
 - (i) has received a course of vaccinations with one or more accepted COVID-19 vaccines in accordance with a schedule for receiving that course of vaccinations that is accepted by the Therapeutic Goods Administration; and
 - (ii) received the last vaccination in the course of vaccinations at least 7 days before the day the relevant international flight was scheduled to commence; and
 - (iii) can produce evidence of the matters mentioned in subparagraphs (i) and (ii);
 - (b) the individual:
 - (i) has a medical contraindication to COVID-19 vaccines; and
 - (ii) can produce evidence provided by a medical practitioner of the matter mentioned in subparagraph (i);
 - (c) neither paragraph (a) nor (b) applies to the individual.

Providing statements made in paper form

- (7) If the individual made a statement as mentioned in subsection (2) in paper form, the individual must provide the statement to a relevant official.

Producing evidence of electronic statements on request

- (8) If the individual made a statement as mentioned in subsection (2) electronically, the individual must produce evidence that the individual made the statement if a relevant official asks the individual to do so.

Producing evidence relating to declarations on request

- (9) If the individual's statement includes a declaration mentioned in subsection (6), the individual must, if a relevant official asks the individual to do so, produce:
- (a) if the declaration was that paragraph (6)(a) applies to the individual—the evidence mentioned in subparagraph (6)(a)(iii); and
 - (b) if the declaration was that paragraph (6)(b) applies to the individual—the evidence mentioned in subparagraph (6)(b)(ii).

Where requirements apply

- (10) The requirements in this section apply at the landing place.

- Note 1: An individual who fails to comply with a requirement that applies to the individual under this section may contravene a civil penalty provision (see section 46 of the Act).
- Note 2: A person may commit an offence or contravene a civil penalty provision if the person provides false or misleading information or documents (see sections 137.1 and 137.2 of the *Criminal Code* and sections 532 and 533 of the Act).
- Note 3: For protections for children or incapable persons who are subject to the requirements in this section, see Subdivision B of Division 2 of Part 1 of Chapter 2 of the Act.
- Note 4: Part 2 of Chapter 11 of the Act deals with confidentiality of personal information collected under the Act.

7 Crew statements—exposure

- (1) This section applies to an individual who is entering Australian territory:
- (a) at a landing place in accordance with Division 2 of Part 4 of Chapter 4 of the Act; and
 - (b) as the person in charge or a member of the crew of an aircraft on a relevant international flight;
- unless:
- (c) an exemption for the purposes of this section was granted under paragraph 8(1)(a) for the flight before the flight commenced; or
 - (d) an exemption for the purposes of this section granted under section 9 before the flight commenced applies to the individual; or
 - (e) an exemption for the purposes of this section was granted to the individual under section 10 before the flight commenced.

Ability to produce evidence of statement made before boarding

- (2) The individual must be able to produce, to a relevant official, evidence that, before the individual boarded the aircraft, the individual made a written statement:
- (a) using an electronic system maintained by the Home Affairs Department; or

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- (b) if exceptional circumstances prevented the individual from using an electronic system maintained by the Home Affairs Department—in paper form;

that included:

- (c) a declaration that in the 3 days before the day the relevant international flight was scheduled to commence, the individual had not been exposed, without adequate personal protective precautions, to a person who tested positive for COVID-19 in that period; and
- (d) for a statement made in paper form—a declaration that exceptional circumstances prevented the individual from using an electronic system maintained by the Home Affairs Department.

Note: The following are examples of exceptional circumstances for paragraphs (2)(b) and (d):

- (a) the electronic system was not available to the individual;
- (b) the electronic system was not available to the individual in a language that the individual understands.

Providing statements made in paper form

- (3) If the individual made a statement as mentioned in subsection (2) in paper form, the individual must provide the statement to a relevant official.

Producing evidence of electronic statements on request

- (4) If the individual made a statement as mentioned in subsection (2) electronically, the individual must produce evidence that the individual made the statement if a relevant official asks the individual to do so.

Where requirements apply

- (5) The requirements in this section apply at the landing place.

Note 1: An individual who fails to comply with a requirement that applies to the individual under this section may contravene a civil penalty provision (see section 46 of the Act).

Note 2: A person may commit an offence or contravene a civil penalty provision if the person provides false or misleading information or documents (see sections 137.1 and 137.2 of the *Criminal Code* and sections 532 and 533 of the Act).

Note 3: Part 2 of Chapter 11 of the Act deals with confidentiality of personal information collected under the Act.

8 Exemptions for flights—exceptional circumstances

- (1) In exceptional circumstances, the Director of Human Biosecurity, a chief human biosecurity officer, a human biosecurity officer or a Home Affairs SES employee may:
 - (a) grant an exemption for the purposes of section 6 or 7 for a relevant international flight; or
 - (b) grant an exemption for the purposes of any of paragraphs 6(2)(c) to (h) for a relevant international flight.
- (2) An exemption under subsection (1) must be in writing.

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- (3) For the purposes of this instrument, an exemption under subsection 9A(1) of the Emergency Requirements Determination is taken to be an exemption under paragraph (1)(a) of this section for the purposes of sections 6 and 7.

9 Exemptions for classes of individuals—exceptional circumstances

- (1) In exceptional circumstances, the Director of Human Biosecurity may grant an exemption for the purposes of any of paragraphs 6(2)(c) to (h), or section 7 (as applicable), to a class of individuals.
- (2) An exemption under subsection (1) must be in writing.
- (3) For the purposes of this instrument, an exemption under subsection 9B(1) of the Emergency Requirements Determination is taken to be an exemption under subsection (1) of this section for the purposes of paragraph 6(2)(f) or section 7 (as applicable).

10 Exemptions for individuals—exceptional circumstances

- (1) In exceptional circumstances, a relevant official may grant an exemption for the purposes of any of paragraphs 6(2)(c) to (h), or section 7 (as applicable), to an individual.
- (2) For the purposes of subsection (1), exceptional circumstances are demonstrated by the individual providing a compelling reason for not complying with the paragraph or section (as applicable).
- (3) An exemption under subsection (1) must be in writing.
- (4) For the purposes of this instrument, an exemption under subsection 10(1) of the Emergency Requirements Determination is taken to be an exemption under subsection (1) of this section for the purposes of paragraph 6(2)(f) or section 7 (as applicable).

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Part 3—Negative test requirements—passengers

11 Evidence of negative test results

- (1) This section applies to an individual who is entering Australian territory:
- (a) at a landing place in accordance with Division 2 of Part 4 of Chapter 4 of the Act; and
 - (b) as a passenger of an aircraft on a relevant international flight;
- unless:
- (c) an exemption set out in section 14 applies to the individual; or
 - (d) an exemption was granted to the individual under section 15 before the flight commenced; or
 - (e) an exemption granted under section 16 before the flight commenced applies to the individual; or
 - (f) an exemption was granted under section 17 for the flight before the flight commenced; or
 - (g) the flight is an Australian Government facilitated flight.

Ability to produce evidence of negative test result

- (2) The individual must be able to produce, to a relevant official:
- (a) evidence, in the form of the result of a test specified in subsection (3), that in the period mentioned in subsection (4) or (5) (as applicable) the individual was tested for COVID-19 and that the result of the test was negative; or
 - (b) evidence, in the form of a certificate provided by a medical practitioner that includes the matters specified in subsection (7), that:
 - (i) in the period mentioned in subsection (8), the individual was tested for COVID-19 using a rapid antigen test conducted in accordance with subsection (6); and
 - (ii) the result of the test was negative.

NAAT and other approved tests

- (3) For the purposes of paragraph (2)(a), the following tests are specified:
- (a) a NAAT test;
 - (b) a test approved under section 13 for a country or region, if:
 - (i) the individual was in the country or region in the period mentioned in subsection (4) or (5) (as applicable); and
 - (ii) the approval was in force at the beginning of that period.
- (4) For the purposes of paragraph (2)(a) and subparagraph (3)(b)(i), the period for an individual to whom an extension does not apply under section 12 is:
- (a) for an individual who is not a connecting traveller—the period of 3 days before the day the relevant international flight was scheduled to commence; and

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- (b) for an individual who is a connecting traveller—the period of 3 days before the day the individual’s connecting flight (or, if the individual undertook more than one connecting flight, the individual’s first connecting flight) was scheduled to commence.
- (5) For the purposes of paragraph (2)(a) and subparagraph (3)(b)(i), the period for an individual to whom an extension applies under section 12 is the period specified in the extension.

Rapid antigen tests

- (6) For the purposes of subparagraph (2)(b)(i), a rapid antigen test is conducted in accordance with this subsection if the specimen for the test is collected, and the test is carried out, by or under the supervision of a medical practitioner.
- (7) For the purposes of paragraph (2)(b), the following matters are specified for a certificate for a rapid antigen test:
 - (a) the date and time of the test;
 - (b) the name of the individual tested;
 - (c) the type of test conducted;
 - (d) the brand and make of the test;
 - (e) that the specimen for the test was collected, and the test was carried out, by or under the supervision of a medical practitioner;
 - (f) the result of the test;
 - (g) the signature of the medical practitioner providing the certificate.
- (8) For the purposes of subparagraph (2)(b)(i), the period is:
 - (a) for an individual who is not a connecting traveller—the period of 24 hours before the scheduled departure time for the relevant international flight; and
 - (b) for an individual who is a connecting traveller—the period of 24 hours before the scheduled departure time for the individual’s connecting flight (or, if the individual undertook more than one connecting flight, the individual’s first connecting flight).

Where requirements apply

- (9) The requirements in this section apply at the landing place.

- Note 1: An individual who fails to comply with a requirement that applies to the individual under this section may contravene a civil penalty provision (see section 46 of the Act).
- Note 2: A person may commit an offence or contravene a civil penalty provision if the person provides false or misleading information or documents (see sections 137.1 and 137.2 of the *Criminal Code* and sections 532 and 533 of the Act).
- Note 3: For protections for children or incapable persons who are subject to the requirement in subsection (2), see Subdivision B of Division 2 of Part 1 of Chapter 2 of the Act.
- Note 4: Part 2 of Chapter 11 of the Act deals with confidentiality of personal information collected under the Act.

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12 Extension of period for testing for classes of individuals

- (1) The Director of Human Biosecurity may extend the period for being tested as mentioned in paragraph 11(2)(a) for a class of individuals if it is not reasonably practicable for that class of individuals to be tested and receive test results within a period of 3 days.
- (2) An extension under subsection (1) must be in writing.
- (3) For the purposes of this instrument, an extension under subsection 12(1) of the Emergency Requirements Determination is taken to be an extension under subsection (1) of this section.

13 Approval of tests other than NAAT tests for countries or regions

- (1) The Director of Human Biosecurity may approve a kind of test for COVID-19 for a country or region if a NAAT test is not reasonably available in the country or region.
- (2) An approval under subsection (1) must be in writing.
- (3) For the purposes of this instrument, an approval under subsection 13(1) of the Emergency Requirements Determination is taken to be an approval under subsection (1) of this section.

14 Exemptions for individuals—general

- (1) An exemption for the purposes of section 11 applies to the following:
 - (a) an individual who was less than 5 years old on the day the relevant international flight was scheduled to commence;
 - (b) an individual who is carrying evidence, provided by a medical practitioner within 30 days before the day the relevant international flight was scheduled to commence, that the individual has a medical condition that prevents the individual from taking a test for COVID-19;
 - (c) an individual who is carrying a certificate, provided by a medical practitioner within 30 days before the day the relevant international flight was scheduled to commence, that includes the matters mentioned in subsection (2);
 - (d) an individual:
 - (i) who is a passenger of an aircraft on a relevant international flight that is an emergency medical evacuation flight; and
 - (ii) who meets the requirement mentioned in subsection (3);
 - (e) an individual:
 - (i) who is a passenger of an aircraft on a relevant international flight that is an emergency medical evacuation flight; and
 - (ii) who is accompanying and supporting an individual (the *patient*) mentioned in paragraph (d) because of the patient's medical condition.

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Certificate for recovered individuals

- (2) For the purposes of paragraph (1)(c), the matters are the following:
- (a) the day the certificate is provided;
 - (b) a statement to the effect that the individual has had COVID-19 but is now recovered and is not considered to be infectious;
 - (c) the day when there was first a positive result of a NAAT test or a rapid antigen test for COVID-19 for the individual;
 - (d) a statement to the effect that, on the day the certificate is provided:
 - (i) it has been at least 7 days since the day mentioned in paragraph (c) of this subsection; and
 - (ii) if the individual had symptoms of COVID-19—the individual has not had a fever, or respiratory symptoms of COVID-19, in the last 72 hours.

Emergency medical evacuation flights

- (3) For the purposes of subparagraph (1)(d)(ii), the requirement is that the individual (the **patient**) (or an individual accompanying and supporting the patient as mentioned in paragraph (1)(e)) is carrying evidence, provided by a medical practitioner, that:
- (a) the patient has a serious medical condition; and
 - (b) the patient requires emergency management or an effective treatment of the medical condition that:
 - (i) is available in Australian territory; and
 - (ii) was not reasonably available, in time to benefit the patient, in the country where the relevant international flight commenced; and
 - (iii) if the patient is a connecting traveller—was not reasonably available, in time to benefit the patient, in the country where the patient's connecting flight commenced (or, if the patient undertook more than one connecting flight, any of the countries where the connecting flights commenced); and
 - (c) the lack of the management or treatment mentioned in paragraph (b) of this subsection caused an immediate exacerbation of the patient's medical condition and the need for the patient to enter Australian territory within 48 hours.

15 Exemptions for individuals—exceptional circumstances

- (1) In exceptional circumstances, a relevant official may grant an exemption for the purposes of section 11 to an individual.
- (2) For the purposes of subsection (1), exceptional circumstances are demonstrated by the individual providing a compelling reason for not complying with the requirement in subsection 11(2).
- (3) An exemption under subsection (1) must be in writing.

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- (4) For the purposes of this instrument, an exemption under subsection 15(1) of the Emergency Requirements Determination is taken to be an exemption under subsection (1) of this section.

16 Exemptions for classes of individuals—testing not available

- (1) The Director of Human Biosecurity may grant an exemption for the purposes of section 11 to a class of individuals if no test for COVID-19 is reasonably available to that class of individuals.
- (2) An exemption under subsection (1) must be in writing.
- (3) For the purposes of this instrument, an exemption under subsection 16(1) of the Emergency Requirements Determination is taken to be an exemption under subsection (1) of this section.

17 Exemptions for flights—exceptional circumstances

- (1) In exceptional circumstances, the Director of Human Biosecurity, a chief human biosecurity officer, a human biosecurity officer or a Home Affairs SES employee may grant an exemption for the purposes of section 11 for a relevant international flight.
- (2) An exemption under subsection (1) must be in writing.
- (3) For the purposes of this instrument, an exemption under subsection 16A(1) of the Emergency Requirements Determination is taken to be an exemption under subsection (1) of this section.

Schedule 1—Repeals

Biosecurity (Entry Requirements—Human Coronavirus with Pandemic Potential) Determination 2021

1 The whole of the instrument

Repeal the instrument.

Biosecurity (Entry Requirements—Human Coronavirus with Pandemic Potential) Determination (No. 2) 2021

2 The whole of the instrument

Repeal the instrument.