

EXPLANATORY STATEMENT

Biosecurity Act 2015

Biosecurity (Exit Requirements) Repeal Determination 2022

Purpose

The *Biosecurity (Exit Requirements) Repeal Determination 2022* (the Repeal Determination) repeals the *Biosecurity (Exit Requirements) Determination 2020* (the Determination). The Determination was made under s45(2) of the *Biosecurity Act 2015*.

The repeal of the Determination removes requirements for individuals exiting Australian territory from six international airports and travelling to ten specified Pacific Island countries to undergo a health screening for signs and symptoms of COVID-19. It provided a means of protecting the public health in Australia's neighbouring Pacific Island Countries and Timor-Leste through the prescription of certain screening requirements for individuals leaving Australian territory, in order to prevent COVID-19 from spreading to those neighbouring countries.

The Health Minister, on advice from the Commonwealth Chief Medical Officer, is no longer satisfied that the Determination is necessary to prevent the risk of COVID-19 spreading to these other countries. That is, those screening requirements applying to Australians leaving Australian territory and bound for those destinations are no longer necessary to prevent the spread of COVID-19 to Australia's neighbouring countries, in the light of the implementation of other mitigation measures, rising national COVID-19 vaccination rates in Australia and consistent with the public health advice.

Australians leaving Australian territory from designated international airports and travelling to the destinations listed in the Determination will still be subject to any relevant Australian requirements for Australians leaving Australian territory to travel abroad. They will also be subject to any relevant restrictions or requirements at their destination, for example relating to COVID-19 testing and quarantine for incoming travellers.

The Repeal Determination is a legislative instrument for the purposes of the *Legislation Act 2003*. The Repeal Determination is automatically repealed after its commencement under section 48A of the *Legislation Act 2003*.

Background

On 5 January 2020, the World Health Organization (WHO) notified Member States under the *International Health Regulations (2005)* of an outbreak of pneumonia of unknown cause in Wuhan city, China. On 21 January 2020 'human coronavirus with pandemic potential' became a 'listed human disease' under section 42 of the *Biosecurity Act* (see the *Biosecurity (Listed Human Diseases) Determination 2016*). On 30 January 2020, the outbreak was declared by the WHO to constitute a Public Health Emergency of International Concern.

On 11 February 2020, the WHO announced that the International Committee on Taxonomy of Viruses named the pathogen virus ‘severe acute respiratory syndrome coronavirus (SARS-CoV-2)’. It is closely related genetically to the virus that caused the 2003 outbreak of Severe Acute Respiratory Syndrome (SARS). The international name given by the WHO to the disease caused by SARS-CoV-2 is coronavirus disease 2019 (COVID-19). On 11 March 2020, the WHO declared the outbreak of COVID-19 a pandemic.

Authority

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 Repeal Determination is made under subsection 45(2) of the Act.

Reliance on subsection 33(3) of the *Acts Interpretation Act 1901*

Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power is construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

Commencement

The Repeal Determination will commence on the day after the instrument is registered on the Federal Register of Legislation.

Consultation

The Department of Foreign Affairs & Trade, the Department of Home Affairs/ABF, and the Department of Agriculture, Water and the Environment were consulted on this Repeal Determination.

Attachment

A provision by provision description of the Repeal Determination is contained in the Attachment.

Details of the *Biosecurity (Exit Requirements) Repeal Determination 2022*

Section 1 provides that the name of the instrument is the *Biosecurity (Exit Requirements) Repeal Determination 2022*.

Section 2 provides that the Repeal Determination commences on the day after the instrument is registered on the Federal Register of Legislation.

Section 3 states that the authority for making the Repeal Determination is subsection 45(2) of the *Biosecurity Act 2015*.

Section 4 provides that each instrument that is specified in the Schedule to the instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in the Schedule has effect according to its terms.

Schedule 1 – Repeals

Biosecurity (Exit Requirements) Determination 2020

Item 1

Item 1 repeals the whole of the Determination. Repealing the Determination will mean that individuals departing from certain international airports in Australia and travelling to designated Pacific Island countries will no longer be subject to health screening for signs and symptoms of COVID-19 (noting that they would still be subject to any other relevant outgoing travel restrictions or requirements which apply for all travellers departing Australia, as well as any requirements applying to all incoming travellers at their destination).