

EXPLANATORY STATEMENT

Prepared by the Australian Government Department of Health and Ageing

Quarantine (Declared Places — Yellow Fever) Declaration 2012

Quarantine Act 1908

The purpose of the *Quarantine (Declared Places — Yellow Fever) Declaration 2012* (the Declaration) is to provide a list of countries where there is a risk of transmission of yellow fever. Travellers entering Australia from a yellow fever declared place must produce an international certificate of vaccination for yellow fever.

Background

Yellow fever is a serious viral illness that is transmitted between people by mosquitoes. If an infected traveller imported the virus, mosquito species present in Australia may be able to transmit yellow fever, and cause an outbreak.

Australia is a signatory to the World Health Organization (WHO) *International Health Regulations 2005* (IHR). The purpose of the IHR is to prevent, protect against, control and provide a public health response to the international spread of disease.

Recommendations for vaccination against yellow fever are specified in the IHR. In particular, Annexes 6 and 7 state requirements for travellers to be vaccinated and carry a valid international certificate of vaccination, when travelling through an area where there is a risk of yellow fever transmission. The WHO publishes a list of areas where there is a risk of yellow fever transmission. This list is updated from time to time based on global monitoring and surveillance.

Consistent with Australia's obligations as a signatory to the IHR, yellow fever is a quarantinable disease of humans under s21 of the *Quarantine Proclamation 1998*. Section 12 of the *Quarantine Act 1908* (the Quarantine Act), provides the Minister with the power to declare that a place beyond or in Australia is infected with a quarantinable disease, or that a quarantinable disease may be brought or carried from or through that place. This includes a 'yellow fever declared place' defined in Regulation 32 of the *Quarantine Regulations 2000* (the Regulations),

Regulation 34 specifies that a person who travels from a yellow fever declared place may be asked to produce an international certificate of vaccination against yellow fever. Section 45(3) of the Quarantine Act provides that a quarantine officer may place an unvaccinated traveller under quarantine surveillance. Regulation 43 provides that a person subject to quarantine may be required to report symptoms of a disease to a medical practitioner or submit to a medical examination.

This Declaration replaces the *Quarantine (Declared Places — Yellow Fever) Declaration 2009*. It will update Australia's list of yellow fever declared places to add South Sudan and remove Somalia, Sao Tome and Principe, Tanzania and Tobago. This revised list will provide an up to date picture of yellow fever prevalence and is consistent with the current recommendations of the WHO. The changes are minor and

are expected to have a minimal impact on business, the non-profit sector and the public.

Consultation

The Department of Health and Ageing (DoHA) commenced consultation with the following stakeholders, committees and agencies in June 2012:

- the Chief Quarantine Officers (Human Quarantine), who are currently state and territory health department officers appointed under the Quarantine Act;
- the Department's National Arbovirus and Malaria Advisory Committee, which includes experts on diseases transmitted by mosquitoes;
- the Department of Foreign Affairs and Trade;
- the Australian Customs and Border Protection Service;
- the Department of Agriculture, Fisheries and Forestry.

A Regulation Impact Statement is not required as this instrument will have a minimal regulatory impact on business or the non-profit sector (Office of Best Practice Regulation reference 2012/13965).

Notes on Sections

The Declaration is a legislative instrument for the purposes of the *Legislative Instrument Act 2003*. The provisions of the Declaration are described in Attachment 1.

Statement of Compatibility with Human Rights

A statement of compatibility with human rights for the purposes of Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* is set out in Attachment 2.

NOTES ON SECTIONS

Section 1 – Name of Declaration

This section provides that the title of the Declaration is the *Quarantine (Declared Places – Yellow Fever) Declaration 2012*

Section 2 – Commencement

This section provides for the Declaration to commence on 1 November 2012.

Section 3 – Repeal

This section repeals the previous declaration dated 18 May 2009.

Section 4 – Definition

This section provides for defined terms to be used in the Declaration and gives shortened reference to the *Quarantine Act 1908*.

Section 5 – Declaration

This section sets out the list of ‘declared places’ for the purpose of section 12 of the Quarantine Act. This list will replace the previous list of places that were declared in May 2009.

Statement of Compatibility with Human Rights

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

Quarantine (Declared Places — Yellow Fever) Declaration 2012

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 purpose of the Declaration is to update Australia's list of yellow fever declared places to align with the current recommendations of the World Health Organization (WHO). The list is used to identify international travellers to Australia who may pose a risk of yellow fever transmission. Yellow fever is a mosquito-borne disease that poses a serious public health risk to Australia. Travellers from yellow fever declared places are required to provide evidence of vaccination at the Australian border. Unvaccinated travellers may be placed under quarantine surveillance, and provided with information on yellow fever and measures to reduce the risk of transmission.

Human rights implications

This instrument engages the following human rights:

Freedom of Movement:

The right to freedom of movement is protected under Article 12 of the International Covenant on Civil and Political Rights (ICCPR). Article 12(3) allows for the right to liberty of movement to be limited if it is necessary for the protection of public health.

Yellow fever cases in travellers may be infectious to mosquitoes from one day before symptom onset and for the period of initial, acute illness. The detection of cases is necessary to allow public health action to be taken, which may include mosquito control measures and public messaging. Requiring travellers to produce an international certificate of vaccination allows the Commonwealth to identify individuals at risk of yellow fever, and place them under quarantine surveillance.

Individuals under quarantine surveillance do not have any limitations placed on their movements or activities, but are required to seek assessment from a medical practitioner if they develop symptoms of yellow fever. This is a minor restriction on the right to freedom of movement, which is reasonable and necessary for the protection of public health, and no more restrictive than required to achieve the public health objective.

The requirement to show a vaccination certificate is not based on national origin, but on where an individual has travelled prior to entering Australia. Therefore, it is consistent with the right to equality and non-discrimination in Article 2 of the ICCPR.

Privacy:

Article 17 of the ICCPR protects an individual against arbitrary interference with privacy.

Individuals placed under quarantine surveillance are required to provide personal information to enable the Commonwealth to manage the potential public health risk posed by yellow fever. This information is only required to be provided by individuals who have entered Australia from a yellow fever risk area, and do not produce an international certificate of vaccination.

This information is collected and used only for the purpose of managing the risk of yellow fever, and is stored in an appropriate manner to protect individuals' privacy.

Health:

Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), recognises the right of all individuals to enjoy the highest attainable standards of health care. This includes measures for the prevention, treatment, and control of epidemic, endemic, occupational and other diseases (Article 12(2)).

This instrument advances the protection of this right by ensuring the Commonwealth has the powers to control the spread of a potentially serious disease, and also ensures any person developing signs or symptoms of the disease is provided with prompt medical assessment and treatment.

Conclusion

The Legislative Instrument is compatible with human rights. To any extent that the Legislative Instrument may limit human rights, those limitations are reasonable, necessary and proportionate to address any public health risk.

**Tanya Plibersek
Minister for Health**