

## EXPLANATORY STATEMENT

### *Biosecurity Act 2015*

### *Biosecurity (Human Health) Regulation 2016*

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 themselves, or spreading in Australian territory or a part of Australian territory.

Section 645 of the Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Subsection 47(2) of the Act provides that contact information that must be provided by operators of incoming or outgoing passenger aircraft or vessels must be provided in the manner prescribed by regulations.

Section 53 of the Act provides that regulations may prescribe measures to be taken by operators of incoming or outgoing aircraft or vessels to destroy certain disease agents.

Subsection 91(3) provides that the regulations must prescribe requirements for taking, storing, transporting, labelling and using body samples provided under section 91 of the Act.

Subsection 221(2) provides that the regulations must prescribe:

- (a) the quarantine signal; and
- (b) the circumstances in which the quarantine signal must be displayed on a vessel within Australian territory; and
- (c) the manner in which the quarantine signal must be displayed.

Subsection 255(1) of the Act provides that regulations may prescribe a scheme in relation to ship sanitation.

The purpose of the Regulation is to set requirements for matters relating to human health provisions under Chapters 2 and 4 of the Act. These include obtaining contact information for aircraft and vessel operators, requirements for aircraft operators to take measures to control or destroy insect vectors of human diseases that may exist on or in an aircraft ('disinsection measures'), requirements relating to human biosecurity control orders, requirements for quarantine signals that must be displayed by vessels, and establishing the ship sanitation certification scheme.

The Regulation sets requirements for human biosecurity measures to be taken under the Act. These requirements include:

- that operators of aircraft and vessels provide contact information, including a business address, email and telephone number;
- that incoming aircraft undertake disinsection measures in a manner approved by the Director of Human Biosecurity;
- requirements relating to human biosecurity control orders;
- specifications for quarantine signals, including, the circumstances and manner under which quarantine signals must be displayed; and
- the establishment of an internationally recognised ship sanitation certification scheme which includes sanitation health risks posed by vessels arriving or intending to arrive in Australian territory.

During the development of the Regulation, the Department of Health consulted with the Attorney General's Department, the Department of Agriculture and Water Resources, the Office of Parliamentary Counsel, and state and territory health departments.

The Regulation was also released as an exposure draft on the Department of Health's website, providing key non-government stakeholders (including air and sea ports, airlines, shipping companies and individual travellers) with the opportunity to comment on the draft Regulation.

Details of the Regulation are set out in the Attachment.

The Act specifies no conditions that need to be satisfied before the power to make the Regulation may be exercised.

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

The Regulation commences on 16 June 2016.

Authority: Section 645 of the *Biosecurity Act 2015*

**Details of the *Biosecurity (Human Health) Regulation 2016***

**Part 1- Preliminary**

Section 1 – Name

Section 1 provides that the name of the Regulation is the *Biosecurity (Human Health) Regulation 2016* (the Regulation).

Section 2 – Commencement

Section 2 provides that the Regulation commences at the same time as Section 3 of the *Biosecurity Act 2015* (the Act). Section 3 of the Act will commence on 16 June 2016.

Section 3 – Authority

Section 3 specifies that the Regulation is made under the Act.

Section 4 - Definitions

Section 4 sets out defined terms used in the Regulation. It also notes that a number of terms used in the Regulation are defined in the Act.

**Part 2 – Preventing risks to human health**

Section 5- Contact information that must be provided by operators of incoming or outgoing passenger aircraft or vessels

Section 5 sets out requirements for preventative health measures to be taken under the Act. This includes a requirement that operators of aircraft and vessels provide contact information, including a business address, email and telephone number. This information may be used for public health follow-up, for example, to obtain information to assist with contact tracing, should a passenger be infectious with a communicable disease while travelling, including listed human diseases under the Act.

Operators of an incoming and outgoing passenger aircraft or vessel are exempt from the requirement to provide contact information in relation to the actual or intended movement between Norfolk Island, the Torres Strait permanent biosecurity monitoring zone, the Torres Strait protected zone, and the remainder of Australian territory.

Section 6 – Exemption from Pratique

Section 6 provides that incoming aircraft or vessels are exempt from the requirement to be granted pratique under the Act prior to unloading or loading any thing or any person embarking or disembarking from the aircraft or vessel in relation to the actual or intended movement between Norfolk Island, the Torres Strait permanent biosecurity monitoring zone, the Torres Strait protected zone, and the remainder of Australian territory.

Section 7 – Disinsection measures for incoming aircraft

Section 7 provides that the operator of an incoming aircraft must undertake disinsection measures in a manner approved by the Director of Human Biosecurity. The prescribed disinsection measures must be taken to control, or destroy, by treating the aircraft, insect vectors of human disease that:

- have the potential to cause, directly or indirectly, a listed human disease; and

- may exist in or on the aircraft or the goods in or on the aircraft.

Operators of an incoming aircraft are not required to comply with the requirement to undertake disinsection measures in relation to the actual or intended movement between Norfolk Island, the Torres Strait permanent biosecurity monitoring zone, the Torres Strait protected zone, and the remainder of Australian territory.

### **Part 3 – Managing risks to human health: human biosecurity control orders**

#### Section 8 – Imposing human biosecurity control orders on individuals - contact information that may be required

Section 8 establishes contact information that may be required for individuals subject to a human biosecurity control order (HBCO). HBCOs may be applied to an individual who has, or is suspected of having, a listed human disease. An HBCO enables the monitoring, treatment and management of that individual.

#### Section 9– Managing contacts with other individuals - contact information that may be required

Section 9 prescribes contact information that may be required for the close contacts of an individual under an HBCO. Obtaining contact details for individuals who have been, or will be, in close proximity to an individual under an HBCO allows for the monitoring and management of a disease, if necessary.

#### Section 10 – Requirements for taking, storing, etc. body samples

Section 10 sets requirements for the taking and storing of body samples. The requirements for taking body samples ensure that human rights are protected and appropriate medical standards are followed when this measure is required under an HBCO.

### **Part 4 – Quarantine Signals**

#### Section 11- Quarantine Signals

In Australia, quarantine signals are used to provide a warning that there may be a high level of biosecurity risk associated with the vessel, the people, or things on board. It is important that these signals are correctly displayed so that biosecurity officers are aware of the risk and can undertake measures to manage it to an acceptable level and other relevant persons can avoid unnecessarily interacting with the vessel. This requirement only applies to vessels because it is operationally impractical to require an aircraft to display a signal while in flight.

Section 11 sets out the quarantine signals for ‘healthy’ and ‘unhealthy’ vessels during daylight hours, and the signal for an ‘unhealthy’ vessel outside of daylight hours, consistent with the International Code of Signals.

### **Part 5 – Ship sanitation certification scheme**

#### Section 12 – Ship sanitation certification scheme

Section 12 provides that for section 255 of the Act, the proposed Regulation prescribes a ship sanitation certification scheme for vessels other than:

- non-commercial vessels; or

- vessels that have moved, or that intend to move, between Norfolk Island, the Torres Strait permanent biosecurity monitoring zone, the Torres Strait protected zone, and the remainder of Australian territory.

### Section 13 – Form of ship sanitation certificates

Section 12 provides that the Director of Human Biosecurity must approve the form of ship sanitation control exemption certificates and ship sanitation control certificates, and the forms must be consistent with the model form set out in Annex 3 of the *International Health Regulations 2005*.

### Section 14 – Assessing and managing sanitation health risks

Section 14 provides that a vessel will be subject to ship sanitation assessment and management under section 257 of the Act if:

- a ship sanitation certificate (which includes both a ship sanitation control certificate and a ship sanitation control exemption certificate) is not in force for the vessel; or
- the operator of the vessel has requested that a ship sanitation certification inspection of the vessel be conducted; or
- a biosecurity officer finds evidence of a sanitation health risk associated with the vessel.

### Section 15 – Ship Sanitation certification inspection

Section 15 provides that a biosecurity officer must conduct a ship sanitation certification inspection if:

- the vessel is at a declared port (as declared by the Director of Human Biosecurity under subsection 256(1) of the Act); and
- a ship sanitation certificate is not in force for the vessel; or
- a biosecurity officer finds evidence of a sanitation health risk.

Additionally, a biosecurity officer may conduct a ship sanitation certification inspection at a declared port if:

- the operator of the vessel requests; and
- it is practicable for the vessel to be inspected at the port.

### Section 16 – Determination of level of sanitation health risk

Section 16 provides that after conducting a ship sanitation certification inspection of a vessel, a biosecurity officer must determine whether the level of sanitation health risk associated with the vessel is acceptable or unacceptable. The section provides criteria for determining acceptable and unacceptable health risks.

### Section 17 – Issue of ship sanitation control exemption certificate

Section 17 provides the criteria for when a ship sanitation control exemption certificate must be issued. A ship sanitation control exemption certificate must be issued in circumstances where:

- a biosecurity officer conducts an inspection of the vessel; and
- is satisfied that there is no unacceptable sanitation health risk.

Ship sanitation control exemption certificates are valid for six months. A ship sanitation control exemption certificate ceases to be in force for a vessel if a ship sanitation control certificate is issued for the vessel.

#### Section 18 – Issue of ship sanitation control certificate

Section 18 provides the criteria for when a ship sanitation control certificate must be issued. A ship sanitation control certificate must be issued in circumstances where:

- a biosecurity officer conducts an inspection of the vessel; and
- the officer determines that there is an unacceptable sanitation health risk; and
- the officer is satisfied that appropriate measures have been taken by the vessel to rectify the risk; or
- it is not practicable for any treatment or other biosecurity measures to be taken in relation to the vessel before the vessel leaves Australian territory.

The section also provides details about the information that must be included on a ship sanitation control certificate.

Ship sanitation control certificates are valid for six months. A ship sanitation control certificate ceases to be in force for a vessel if a ship sanitation control exemption certificate is issued for the vessel.

#### Section 19 – Extension of ship sanitation certificates

Section 19 provides the circumstances for when a ship sanitation certificate can be extended. The operator of a vessel that is at a declared port may request the extension of a ship sanitation certificate that is in force for the vessel, if it is not practical for the vessel to be inspected at the port. Ship sanitation certificates may only be extended for a period of one month from the time that they otherwise would have expired, and cannot be extended if the certificate has previously been extended under this section or by an overseas competent authority.

#### Section 20 – Disclosure of protected information

Section 20 allows for Commonwealth bodies, state or territory bodies, biosecurity industry participants, and overseas competent authorities to share information in relation to the ship sanitation certification scheme. This includes information relating to sanitation health risks identified during an inspection, details of a ship sanitation certificate in force for a vessel, or details of a vessel that does not have a ship sanitation certificate in force.

## **Statement of Compatibility with Human Rights**

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

### **Biosecurity (Human Health) Regulation 2016**

This Regulation 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 Regulation**

The *Biosecurity (Human Health) Regulation 2016* sets requirements for matters relating to human health provisions under Chapters 2 and 4 of the *Biosecurity Act 2015*.

#### **Human rights implications**

Specifically, this Regulation 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 Regulation provides the means of protecting public health in Australia through the prescription of human biosecurity measures to manage the risk of listed human diseases entering Australian territory, or emerging, establishing themselves, or spreading in Australian territory or a part of Australian territory. These measures include obtaining contact information for aircraft and vessel operators, requirements for aircraft operators to take measures to control or destroy insect vectors of human diseases that may exist on or in an aircraft ('disinsection measures'), requirements relating to human biosecurity control orders, requirements for quarantine signals that must be displayed by vessels, and establishing the ship sanitation certification scheme.

The human biosecurity measures contained in this Regulation also implement Australia's obligations under the *International Health Regulations 2005* (IHR). The IHR purpose are to prevent, protect against, control and provide a public health response to the international spread of disease in ways that are commensurate with and restricted to public health risks, and which avoid unnecessary interference with international traffic and trade.

#### **Conclusion**

The Regulation is compatible with human rights because it advances the protection of human rights.

**Sussan Ley,  
Minister of Health**