

## EXPLANATORY STATEMENT

### *Biosecurity Act 2015*

#### *Biosecurity (Entry Requirements) Determination 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.

Subsection 44(2) of the *Biosecurity Act 2015* (the Act) provides that the Health Minister may determine one or more requirements for individuals who are entering Australian territory at a landing place or port.

The purpose of the instrument is to set requirements for individuals or any class of individuals entering Australian territory, to prevent a listed human disease from entering, or establishing itself or spreading in, Australian territory or a part of Australian territory.

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, the Determination provides that individuals entering Australia who have been in a yellow fever risk country in the last 6 days may be required to carry and show a certificate of vaccination against yellow fever. Yellow fever will be a listed human disease under the *Biosecurity Act 2015*.

The Determination also specifies yellow fever risk countries. This list of countries is based on information provided by the WHO and will be regularly reviewed, as appropriate.

During the development of the Determination, 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 Determination 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 Determination are set out in the [Attachment](#).

This Determination commences 16 June 2016, once the *Biosecurity Act 2015* comes into force.

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

**Details of the *Biosecurity (Entry Requirements) Determination 2016***

**Part 1- Preliminary**

Section 1 - Name

Section 1 states that the name of the Determination is *Biosecurity (Entry Requirements) Determination 2016*.

Section 2 - Commencement

Section 2 provides that the Determination 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 Determination is made under subsection 44(2) the Act.

Section 4 – Definitions

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

**Part 2 – Requirements relating to yellow fever**

Section 5 – Requirements to carry international vaccination certificate

Section 5 prescribes that:

- an individual who is entering Australian territory at a landing place or port;
- and stayed overnight or longer in a yellow fever risk country or area within 6 days of entering;

may be required by a biosecurity officer to carry an international vaccination certificate and to show it to the biosecurity officer, on request. Section 5 also contains details of the information that must be contained in the international vaccination certificate.

Schedule 1 – Yellow fever risk countries and areas

Schedule 1 outlines countries and areas where there is a risk of contracting yellow fever.

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

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

### **Biosecurity (Entry Requirements) Determination 2016**

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 public health in Australia through the prescription of requirements for individuals or any class of individuals entering Australian territory, to prevent a listed human disease from entering, or establishing itself or spreading in, Australian territory or a part of Australian territory.

Consistent with Australia's obligations under the IHR, the Determination provides that individuals entering Australia who have been in a yellow fever risk country in the last 6 days may be required to carry and show a certificate of vaccination against yellow fever.

To ensure that the Determination remains up-to-date and proportionate to human health risks, the list of yellow fever countries and areas will be based on information provided by the WHO and will be regularly reviewed, as appropriate.