

## EXPLANATORY STATEMENT

### *Biosecurity Act 2015*

#### ***Biosecurity (Human Health Response Zone) (Royal Australian Air Force Base Learmonth) Determination 2020***

Subsection 113(1) of the *Biosecurity Act 2015* (the Act) provides that the Director of Human Biosecurity may determine that a specified area within a State or Territory is a human health response zone (zone) if satisfied that it is necessary to do so for the purposes of preventing, or reducing the risk of, a listed human disease emerging, establishing itself or spreading in Australian territory or a part of Australian territory. In determining a zone the Director of Human Biosecurity may determine requirements for people entering the zone.

The purpose of the *Biosecurity (Human Health Response Zone) (Royal Australian Air Force Base Learmonth) Determination 2020* (the Determination) is to determine the Royal Australian Air Force Base Learmonth (RAAF Base Learmonth) in Western Australia as a zone, to control entry into the zone.

As required by subsections 113(3) and (4) of the Act, the Director of Human Biosecurity is satisfied that the determination of the zone, and the entry requirements, are both necessary, and appropriate and adapted, to prevent or reduce the risk of the listed human disease ‘human coronavirus with pandemic potential’ emerging, establishing itself or spreading in Australia.

First reported in Wuhan city, Hubei Province, China on 31 December 2019, the novel coronavirus outbreak (2019-nCoV) poses a significant public health risk to Australia due to the potential for human to human transmission, severity of illness and wide spread geographical distribution of cases. Human coronaviruses with pandemic potential, such as 2019-nCoV, are serious and potentially fatal diseases in humans. Coronaviruses may cause severe pneumonia with acute respiratory distress syndrome and multi-organ failure, particularly in older people with a range of underlying conditions.

On 5 January 2020, the World Health Organization (WHO) notified Member States under the *International Health Regulations (2005)* (IHR) of an outbreak of pneumonia of unknown cause in Wuhan city, China. The cause of the outbreak has since been determined as a novel coronavirus. On 30 January 2020, the outbreak was declared by the WHO International Regulations Emergency Committee to constitute a Public Health Emergency of International Concern.

The North West Point Immigration Detention Centre (North West Point IDC), also a human health response zone, on Christmas Island will temporarily house individuals who requested repatriation from Wuhan city, China, in isolation supported by medical care and supervision. It is anticipated that 14 days after their arrival at North West Point IDC on Christmas Island, subject to medical clearances, it will be appropriate for the individuals to return to the Australian mainland, and then their homes.

It is necessary for individuals travelling to Christmas Island to change airplanes in transit at the RAAF Base Learmonth in order to land at the Christmas Island airport.

As required by subsection 113(5) of the Act, the Determination does not specify as a requirement a biosecurity measure that may be included in a biosecurity control order applied to an individual. In accordance with the Act, and clinical guidance, consideration will be given to biosecurity control orders, such as further isolation, if necessary and appropriate.

A person whom a requirement applies under the determination must comply with the requirement: civil penalty 30 penalty units (section 116 of the Act).

To ensure that the zone was in place when the individuals arrived from Wuhan, to address biosecurity risk, the instrument was registered on 3 February 2020 and commenced at the start of 3 February 2020 (ie moment past midnight). The determination was retrospective prior to registration, before individuals arrived from Wuhan. For the period of time prior to registration the determination does not apply to any person (other than the Commonwealth or an authority of the Commonwealth) to the extent that as a result of that commencement the person's rights would be affected so as to disadvantage that person, or liabilities would be imposed for anything done or omitted to be done before the instrument was registered (subsections 12(1A) and (2) of the *Legislation Act 2003*).

The Determination is in force for 3 months beginning on the day that it is registered. It is proposed that it will be repealed after the individuals have transited to Christmas Island and the zone is no longer required.

### **Consultation**

In accordance with section 114 of the Act, before making the determination the Director of Human Biosecurity consulted with the Chief Health Officer for Western Australia and the Director of Biosecurity.

In addition, the Australian Health Protection Principal Committee comprising of Chief Health Officers of each State and Territory in Australia, the Chair of Communicable Diseases Network Australia, and clinical experts across State and Territory Governments were consulted on 31 January 2020 in relation to the Determination.

Consultation also took place with Commonwealth, State and Christmas Island and Northern Territory government agencies, including the Departments of Foreign Affairs and Trade; Department of Agriculture, Water and Environment; Department of Home Affairs; Department of Defence; and the Australian Federal Police.

As required by subsection 115 of the Act, the Director of Human Biosecurity will ensure that the determination is made public.

The Determination is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*, but section 42 (disallowance) of the *Legislation Act 2003* does not apply to the determination.

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

## ATTACHMENT

### ***Biosecurity (Human Health Response Zone) (Royal Australian Air Force Base Learmonth) Determination 2020***

#### **1 Name**

Section 1 provides for the instrument to be referred to as the *Biosecurity (Human Health Response Zone) (Royal Australian Air Force Base Learmonth) Determination 2020*.

#### **2 Commencement**

Section 2 provides that the instrument commences on the day that it is registered.

#### **3 Authority**

Section 3 provides that the instrument is made under subsection 113(1) of the *Biosecurity Act 2015*.

#### **4 Human health response zone**

Section 4 provides that the Royal Australian Air Force Base Learmonth is a human health response zone.

#### **5 Listed human disease to which this instrument relates**

Section 5 provides that this instrument relates to human coronavirus with pandemic potential.

#### **6 Requirement that specified classes of individuals must not enter the zone**

Section 6 provides that an individual, other than one listed in paragraph 6(a)-(d), must not enter the human health response zone.

#### **7 Period during which the instrument is in force**

Section 7 provides that this instrument is in force for 3 months beginning on the day that it commences.