

## EXPLANATORY STATEMENT

### *Biosecurity Act 2015*

#### ***Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) (Emergency Requirements for Remote Communities) Amendment (No.6) Determination 2020***

The *Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) Declaration 2020* (the Declaration) made pursuant to section 475 of the *Biosecurity Act 2015* (the Act) declares that a human biosecurity emergency exists regarding the listed human disease ‘human coronavirus with pandemic potential’ (COVID-19).

During a human biosecurity emergency period, the Minister for Health may, in accordance with sections 477 and 478 of the Act, determine emergency requirements, or give directions, that he or she is satisfied are necessary to prevent or control the entry, emergence, establishment or spread of COVID-19 in Australian territory or a part of Australian territory.

#### **Purpose**

The *Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) (Emergency Requirements for Remote Communities) Amendment (No.6) Determination 2020* (the amendment Instrument) commences the day after the instrument is registered and amends the *Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) (Emergency Requirements for Remote Communities) Determination 2020* (the Determination).

The amendment Instrument is automatically repealed after its commencement under section 48A of the *Legislation Act 2003* as it is incorporated into the Determination itself. The Determination remains in force in relation to the designated areas of South Australia for the duration of the human biosecurity emergency period, unless it is revoked earlier.

The amendments are necessary to exclude the Maralinga Tjarutja Lands, the Point Pearce community and the Nepabunna community in South Australia from the current Determination. The Minister for Health is no longer satisfied that it is necessary for the requirements to apply to these areas in South Australia – i.e. that the requirements are no longer necessary to prevent or control the entry, emergence, establishment or spread of COVID-19 in these areas in South Australia, in light of the measures being taken by the South Australian Government. The amendments are supported by the Maralinga Tjarutja Council, the Point Pearce Aboriginal Corporation and the Nepabunna community.

The amendment Instrument is made relying on subsection 477(1) of the Act as affected by subsection 33(3) of the *Acts Interpretation Act 1901*.

#### **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. The pathogen is a novel (new) coronavirus. On 21 January 2020 ‘human coronavirus with pandemic potential’ became a ‘listed human disease’ by legislative instrument made by the Director of Human Biosecurity. On 30 January 2020, the outbreak

was declared by the WHO International Regulations Emergency Committee 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)’. The virus 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.

COVID-19 has entered Australia. It represents a severe and immediate threat to human health in Australia as it has the ability to cause high levels of morbidity and mortality and is disrupting the Australian community socially and economically.

### *Emergency requirements and directions*

An emergency requirement is a non-disallowable legislative instrument (subsection 477(2)). The Minister for Health makes emergency requirements or gives directions personally (section 474).

The requirements that the Minister for Health may determine include: requirements that apply to persons, goods or conveyances when entering or leaving specified places; requirements that restrict or prevent the movement of persons, goods or conveyances in or between specified places; and requirements for specified places to be evacuated (subsection 477(3)).

Requirements determined under section 477 apply despite any provision of any other Australian law (subsection 477(5)); with the potential consequence that a person who acts in accordance with a requirement may be protected from criminal liability that would otherwise attach to a person’s required actions under State, Territory or Commonwealth law.

### **Consultation**

Consultation occurred with the South Australian Government, South Australia Health Local Health Networks, the Maralinga Tjarutja Corporation, Point Pearce Aboriginal Corporation, Nipapanha Community Aboriginal Corporation, and other regional stakeholders. Consultation also occurred with the National Indigenous Australians Agency.

The amendment Instrument is a non-disallowable legislative instrument under the Legislation Act 2003. The Act provides for the requirement to be non-disallowable to ensure that the Commonwealth is able to take the urgent action necessary to manage a nationally significant threat or harm to Australia’s human health.

A provision-by-provision description of the amendments is contained in the Attachment.

## ATTACHMENT

### ***Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) (Emergency Requirements for Remote Communities) Amendment (No.6) Determination 2020***

#### **1 Name**

Section 1 provides for the instrument to be referred to as the *Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) (Emergency Requirements for Remote Communities) Amendment (No.6) Determination 2020*.

#### **2 Commencement**

Section 2 provides that the instrument commences on 19 June 2020.

#### **3 Authority**

Section 3 provides that the instrument is made under subsection 477(1) of the *Biosecurity Act 2015*.

#### **4 Schedules**

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

## **Schedule 1 – Amendments**

### ***Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) (Emergency Requirements for Remote Communities) Determination 2020***

#### **Item 1 – Schedule 1**

Item 1 repeals paragraph 3(1)(d) of Schedule 1.

Item 1 removes as a designated area, the area on which the community known as the Point Pearce Aboriginal Community is located.

#### **Item 2 – Schedule 1**

Item 2 makes a minor change to paragraph 3(1)(e) necessary as a consequence of the repeal of paragraph 3(1)(f) by item 3.

#### **Item 3 – Schedule 1**

Item 3 repeals paragraph 3(1)(f) of Schedule 1.

Item 3 removes as a designated area, the area known as Nepabunna.

#### **Item 4 – Schedule 1**

Item 4 repeals subclause 3(3) of Schedule 1.

Item 4 removes as a designated area, the area that, immediately before the commencement of this instrument, was land granted under the *Maralinga Tjarutja Land Rights Act 1984* (SA) to Maralinga Tjarutja.