

EXPLANATORY STATEMENT

Biosecurity Act 2015

Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) (Emergency Requirements for Remote Communities) Repeal 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) Repeal Determination 2020* (the repeal Instrument) revokes the *Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) (Emergency Requirements for Remote Communities) Determination 2020* (the Determination).

The repeal Instrument is automatically repealed after its commencement under section 48A of the *Legislation Act 2003* as it is incorporated into the Determination itself.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 will be revoked on 10 July 2020.

The revocation of the Determination is necessary to exclude the Yalata, Gerard and the Anangu Pitjantjatjara Yankunytjatjara Lands (APY Lands) in South Australia from the Determination on 10 July 2020. The Minister for Health, on advice from the Acting Director of Human Biosecurity (who is the Acting Commonwealth Chief Medical Officer), is no longer satisfied that it is necessary for the requirements to apply to these three 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 repeal of the Determination is supported by the Yalata Anangu Aboriginal Corporation, the Gerard Community Council Aboriginal Corporation and the APY Executive Board.

The repeal 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 continues to represent 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 Yalata Anangu Aboriginal Corporation, the Gerard Community Council Aboriginal Corporation and the APY Executive Board and other regional stakeholders. Consultation also occurred with the National Indigenous Australians Agency.

The repeal 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 repeal Instrument is contained in the Attachment.

ATTACHMENT

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

2 Commencement

Section 2 provides that the instrument commences on 10 July 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 this 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 – Repeals

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

Item 1 – Schedule 1

Item 1 repeals the *Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) (Emergency Requirements for Remote Communities) Determination 2020* and as a result, removes the remaining three designated areas of Yalata, Gerard and the APY Lands in South Australia.