

## EXPLANATORY STATEMENT

### *Biosecurity Act 2015*

#### *Biosecurity (Entry Requirements – Human Coronavirus with Pandemic Potential) Determination 2020*

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.

The instrument provides for individuals who are arriving in Australia and who are not subject to mandatory hotel quarantine on arrival to provide contact information for the purposes of contact tracing, and to make a declaration as to their travel history in the 14 days before arrival. The provision of this declaration and contact tracing information is to manage the low risk that individuals may be incubating human coronavirus with pandemic potential (COVID-19), and prevent the further establishment and spread of COVID-19 within Australian territory.

The Determination applies only to a specified group of people, that is, people who are arriving in Australia directly from New Zealand and who are not subject to mandatory hotel quarantine, to ensure that the requirement is no more intrusive than is required in the circumstances.

Personal information that is collected as a result of these requirements will be managed in accordance with relevant Australian privacy laws. The information will be used for the purposes of protecting public health through facilitation of contact tracing (that is, the identification and public health follow-up of individuals who have been exposed to a confirmed case of COVID-19), and identification of individuals who may be experiencing signs and symptoms of COVID-19.

During the development of the Determination, the Department of Health consulted with the Attorney General's Department, the Department of Home Affairs/the Australian Border Force, and the Office of Parliamentary Counsel.

Details of the Determination are set out in the Attachment.

This Determination commences the day after registration.

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

## ATTACHMENT A

### **Details of the *Biosecurity (Entry Requirements – Human Coronavirus with Pandemic Potential) Determination 2020***

#### **Part 1- Preliminary**

##### Section 1 - Name

Section 1 states that the name of the Determination is *Biosecurity (Entry Requirements – Human Coronavirus with Pandemic Potential) Determination 2020*.

##### Section 2 - Commencement

Section 2 provides that the Determination commences on 16 October 2020.

##### 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 – Passenger statements**

##### Section 5 – Requirements to provide statement

Section 5 prescribes that:

- an individual who is entering Australian territory at a landing place or port;
- and as a passenger of an aircraft on a flight that commenced in New Zealand; and
- had stayed in New Zealand for at least 14 days immediately before boarding the flight

must provide to a relevant official a written statement of the individual's travel history and contact details. Section 5 also contains details of the information that must be contained in the declaration, which include personal contact and identification details, and information relevant to establishing the COVID-19 risk posed by the individual.

##### Section 6 – Where requirement applies

Section 6 sets out that the requirement applies to individuals to whom section 5 applies.

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

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

### **Biosecurity (Entry Requirements – Human Coronavirus with Pandemic Potential) Determination 2020**

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.

This Determination specifically requires an individual to provide a declaration as to their travel history to inform a risk assessment, and the collection of personal information for contact tracing to be undertaken should an individual be confirmed to have COVID-19 and public health follow-up be required.