

EXPLANATORY STATEMENT

Biosecurity Act 2015

Biosecurity (Exit Requirements) Amendment (Nauru) Determination 2020

The *Biosecurity Act 2015* (the Act) provides the primary legislative means and a regulatory framework for the Australian Government to manage the following:

- i. biosecurity risks;
- ii. the risk of contagion of a listed human disease or any other infectious human disease;
- iii. the risk of pests and diseases from entering Australian territory and causing harm to animal, plant and human health, the environment and the economy;
- iv. biosecurity emergencies and human biosecurity emergencies.

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. It also gives effect to Australia's international rights and obligations, including under the International Health Regulations, the World Trade Organisation Agreement on the Application of Sanitary and Phytosanitary Measures, the United Nations Convention on the Law of the Sea and the Biodiversity Convention.

Subsection 45(2) of the Act provides that the Health Minister may determine one or more requirements for individuals who are leaving Australian territory; or for operators of outgoing passenger aircrafts or vessels.

The *Biosecurity (Exit Requirements) Amendment (Nauru) Determination 2020* (Amendment Determination) amends the *Biosecurity (Exit Requirements) Determination 2020* (the Determination).

The purpose of the Determination is to set requirements for individuals or any class of individuals exiting Australian territory, to prevent a listed human disease from spreading to other countries listed in the Determination.

The Determination is aimed at providing the means for protecting the public health of Australia's neighbouring Pacific Island Countries and Timor-Leste through the prescription of requirements for individuals or any class of individuals leaving Australian territory, to prevent a listed human disease from entering, or establishing itself or spreading in those neighbouring countries.

This purpose 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.

Australia is a signatory to the World Health Organization International Health Regulations 2005. Annex 1B of the International Health Regulations 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 International Health Regulations, this Determination provides that individuals leaving Australia may be required to undergo a health screening for signs and symptoms of COVID-19, which is a listed human disease under the Act.

This Determination specifies the destination countries for which exit screening of individuals applies. This list of countries is based on data regarding direct flights from Australia to Pacific Island countries and will be regularly reviewed, as appropriate.

The Amendment Determination adds Nauru to the list of countries for which exit screening of individuals applies.

During the development of the Amendment Determination, the Department of Foreign Affairs and Trade, the Department of Agriculture, Water and the Environment, and the relevant state and territory health departments with direct flights to Nauru, recommended and agreed to the listing of Nauru in the Determination of exit requirements.

This Amendment Determination commences on the date it is registered.

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

Details of the *Biosecurity (Exit Requirements) Amendment (Nauru) Determination 2020*

Part 1- Preliminary

Section 1 - Name

Section 1 states that the name of the Amendment Determination is *Biosecurity (Exit Requirements) Amendment (Nauru) Determination 2020*.

Section 2 - Commencement

Section 2 provides that the Amendment Determination commences immediately after the instrument is registered.

Section 3 – Authority

Section 3 specifies that the Amendment Determination is made under subsection 45(2) the Act.

Section 4 - Schedules

Section 4 specifies that each instrument 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

Schedule 1 specifies that individuals leaving Australian territory on an aircraft bound for Nauru and are departing from an applicable airport listed in the *Biosecurity (Exit Requirements) Determination 2020* must undergo a health screening by a biosecurity officer or a human biosecurity officer for the purpose of establishing whether the individual may be, or may have been, infected with human coronavirus with pandemic potential, as set out in the Determination.

Statement of Compatibility with Human Rights

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

Biosecurity (Exit Requirements) 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 the public health in Australia's neighbouring Pacific Island Countries and Timor-Leste through the prescription of requirements for individuals or any class of individuals leaving Australian territory, to prevent a listed human disease from entering, or establishing itself or spreading in, neighbouring countries.

Consistent with Australia's obligations under the International Health Regulations, the Determination provides that individuals leaving Australia for Pacific Island Countries are required to undergo a health screening for signs and symptoms of COVID-19.

To ensure that the Determination remains up-to-date and proportionate to human health risks, the airports and list of countries for which exit screening applies will be regularly reviewed in consultation with relevant agencies, as appropriate.

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