

How the Federal Government's Emergency Restrictions on COVID-19 (Coronavirus) work

20 July 2020

This resource explains the basis for, and extent of, the Federal Government's restrictions relating to COVID-19 (also known as coronavirus) as at 20 July 2020.

On 18 March 2020, the Prime Minister announced the Governor-General had declared a human biosecurity emergency to respond to the risks the COVID-19 pandemic poses to human health and the need to control its spread in Australia.^[1]

Looking for resources for a specific state?

This resource explains the Federal Government's powers, but the states and territories have different laws responding to COVID-19 which restrict what you can do. Find out about the restrictions in your jurisdiction:

[VIC](#) | [NSW](#) | [QLD](#) | [SA](#) | [ACT](#) | [NT](#) | [TAS](#) | [WA](#)

What is a human biosecurity emergency?

Under the [Biosecurity Act 2015 \(Cth\)](#) (**the Act**) a human biosecurity emergency can be declared where it is reasonably necessary to prevent or control disease posing a severe and immediate threat of harm.^[2]

The Act allows for a human biosecurity emergency period to be as long as necessary to prevent or control COVID-19, but no longer than three months.^[3] However, the human biosecurity emergency period may be varied or extended for up to three months, and the three month extension can be used more than once.^[4]

An extension may only occur where the Health Minister is satisfied that COVID-19 continues to pose a severe and immediate threat, or cause harm on a national scale, and the extension is necessary to prevent or control the entry, emergence, establishment or spread of COVID-19 in Australia.

Powers under the Act

The human biosecurity emergency declaration gives the Federal Health Minister broad powers to determine any emergency requirements or give any direction to any person where the Federal Health Minister is satisfied the direction is necessary to prevent or control the spread of COVID-19.^[5]

The first emergency requirement made under these powers was announced on 18 March 2020, where the Prime Minister made a declaration to formally prohibit international cruise ships from entering Australian ports for 30 days.^[6]

What restrictions are in place in response to COVID-19?

The National Cabinet has imposed the following restrictions:

- [a ban on overseas travel](#); and
- [a limit on international passenger arrivals](#);

All other restrictions are controlled by the states and territories. To understand those restrictions, see our [state and territory resources](#).

If you are a community organisation, [find out about how these restrictions impact your duties to employees and volunteers](#).

Penalties

Refusing or failing to comply with a direction or requirement made under the Act may result in up to 5 years imprisonment and/or a fine of up to \$50,000.^[7]

If you receive a fine, you should seek legal advice.

What to do if you or your family receive directions

If you or your family are directed to do something using the powers outlined in this resource, you can get legal advice through Justice Connect.

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Biosecurity Act 2015

No. 61, 2015 Compilation No. 7

Compilation date: 1 March 2019

Includes amendments up to: Act No. 88, 2018

Registered: 7 March 2019

Simplified outline of this Act

This Act is about managing diseases and pests that may cause harm to human, animal or plant health or the environment.

This Chapter includes preliminary provisions (such as the extension of this Act to external Territories, and the relationship of this Act with other Australian laws). It also includes the definitions for this Act, provisions that relate to the Constitution and international law, and principles affecting decisions to exercise certain powers under this Act.

Chapter 2 deals with managing risks to human health. That Chapter mainly deals with diseases (listed human diseases) that are listed in a legislative instrument. The main method of managing risks to human health is by imposing a human biosecurity control order on an individual who may have a listed human disease. However, Chapter 2 also includes requirements in relation to persons entering or leaving Australian territory, and rules relating to managing deceased individuals.

Chapter 3 deals with managing biosecurity risks in relation to goods that are brought into Australian territory from outside Australian territory. These goods become subject to biosecurity control when the aircraft or vessel carrying the goods enters Australian territory. Powers may be exercised to assess the level of biosecurity risk associated with the goods, and biosecurity measures may be required to reduce that risk if it is considered to be unacceptable. Chapter 3 also provides a mechanism for prohibiting certain goods from being brought or imported into Australian territory, either absolutely or subject to conditions, and includes provisions dealing with biosecurity import risk analyses and import permits.

Chapter 4 deals with managing biosecurity risks in relation to aircraft and vessels that enter Australian territory from outside Australian territory, including by controlling the places where they can land or be moored and their movement while they are in Australian territory. These conveyances become subject to biosecurity control when they enter Australian

territory. Powers may be exercised to assess the level of biosecurity risk associated with them, and biosecurity measures may be required to reduce that risk if it is considered to be unacceptable. Chapter 4 also provides for a scheme to deal with ship sanitation for the purposes of the International Health Regulations.

Chapter 5 implements the Ballast Water Convention and regulates the ballast water and sediment of certain vessels in accordance with the United Nations Convention on the Law of the Sea. It requires reporting of intended or actual discharges of ballast water in Australian territorial seas. Discharging ballast water is an offence, subject to a range of exceptions, and there is an offence of disposing of sediment. For an Australian vessel, these offences apply whether the vessel is in or outside Australian seas. For a foreign vessel, the offences apply only if the vessel is in Australian seas. The definition of *Australian seas* depends on whether the Administration of the foreign vessel is a party to the Ballast Water Convention. The Chapter also includes provisions for ballast water management plans and certificates, recordkeeping obligations and powers to ensure compliance.

Chapter 6 deals with managing biosecurity risks (other than those covered by Chapter 3 or 4) posed by diseases or pests that may be in or on goods or premises in Australian territory. The Chapter provides for powers to be exercised to monitor, respond to and control those risks.

Chapter 7 provides for arrangements to be approved authorising and requiring biosecurity industry participants to carry out biosecurity activities to manage biosecurity risks associated with goods, premises or other things for the purposes of this Act.

Chapter 8 provides for the Governor-General to declare biosecurity emergencies and human biosecurity emergencies. Part 1 gives the Agriculture Minister special powers to deal with biosecurity emergencies and provides for certain powers to be delegated to national response agencies. Part 1 also includes other modifications of the Act that apply during biosecurity emergencies. Part 2 gives the Health Minister special powers to deal with human biosecurity emergencies, including by giving effect to recommendations of the World Health Organization.

Chapter 9 gives officers powers to ensure people are complying with this Act, to investigate noncompliance and to enforce this Act by means such as civil penalties, infringement notices, enforceable undertakings and injunctions. In many cases this is done by applying the Regulatory Powers Act. The Chapter also provides for warrants for officers to enter premises and exercise powers for some other purposes relating to biosecurity, as well as powers for officers to enter premises and exercise powers there without a warrant or consent in some limited cases. Officers have certain obligations relating to their entry to premises (with or without a warrant or consent), and occupiers of premises have certain rights relating to the activities of officers on their premises. The Chapter also includes other provisions relevant to ensuring compliance with this Act, such as how to determine whether a person is a fit and proper person.

Chapter 10 deals with matters relating to governance and officials. It includes provisions relating to the functions and powers of the Director of Biosecurity, the Director of Human Biosecurity, biosecurity officers, biosecurity enforcement officers, chief human biosecurity officers and human biosecurity officers.

Chapter 11 includes miscellaneous provisions, dealing with matters such as:

- (a) review of reviewable decisions under this Act; and
- (b) the confidentiality of information obtained under this Act; and
- (c) recovering costs under this Act; and
- (d) abandoned or forfeited goods and conveyances; and
- (e) modification of this Act in relation to certain movements of persons, goods and conveyances.

4 Objects of this Act

The objects of this Act are the following:

- (a) to provide for managing 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 listed human diseases or any other infectious human diseases entering Australian territory or a part of Australian territory, or emerging, establishing themselves or spreading in Australian territory or a part of Australian territory;
 - (iv) risks related to ballast water;
 - (v) biosecurity emergencies and human biosecurity emergencies;
- (b) to give effect to Australia's international rights and obligations, including under the International Health Regulations, the SPS Agreement, the Ballast Water Convention, the United Nations Convention on the Law of the Sea and the Biodiversity Convention.

Note: The expression biosecurity risk referred to in subparagraph (a)(i) has different meanings depending on whether it is for the purposes of Chapter 6 (managing biosecurity risks: monitoring, control and response) or another part of this Act (see sections 9 and 310).

5 Appropriate Level of Protection (ALOP) for Australia against biosecurity risks

The *Appropriate Level of Protection* (or *ALOP*) for Australia is a high level of sanitary and phytosanitary protection aimed at reducing biosecurity risks to a very low level, but not to zero.

Note 1: This section is in accordance with Australia's rights and obligations under the SPS Agreement.

Note 2: The ALOP for Australia must be applied in conducting a BIRA (see subsection 167(2)) or a risk assessment for the purpose of deciding whether particular goods, or a particular class of goods, can be brought or imported into Australian territory (see subsections 173(4), 174(3), 179(3) and 182(4)).

6 Act binds the Crown

- (1) This Act binds the Crown in each of its capacities.
- (2) This Act does not make the Crown liable to be:
 - (a) prosecuted for an offence; or

- (b) subject to civil proceedings for a civil penalty order under Part 4 of the Regulatory Powers Act; or
- (c) given an infringement notice under Part 5 of the Regulatory Powers Act.

7 Extension of Act to Christmas Island, Cocos (Keeling) Islands and other prescribed external Territories

- (1) This Act extends to Christmas Island and the Cocos (Keeling) Islands.
- (2) The regulations may extend this Act or any provisions of this Act, other than Chapter 5 (ballast water), to any other external Territory that is prescribed by the regulations.

Note: Chapter 5 extends to all the external Territories (see section 259).

8 Concurrent operation of State and Territory laws

- (1) This Act does not exclude or limit the operation of a law of a State or Territory that is capable of operating concurrently with this Act (except as referred to in subsection (2)).
- (2) Subsection (1) is subject to the following provisions:
 - (a) section 172 (prohibited goods);
 - (b) section 265 (ballast water);
 - (c) subsections 445(4), 446(4), 477(5) and 478(4) (biosecurity emergencies and human biosecurity emergencies).
- (3) Without limiting subsection (1), this Act does not exclude or limit the concurrent operation of a law of a State or Territory to the extent that:
 - (a) the law makes an act or omission:
 - (i) an offence; or
 - (ii) subject to a civil penalty; and
 - (b) that (or any similar) act or omission is also:
 - (i) an offence against a provision of this Act; or
 - (ii) subject to a civil penalty under this Act.
- (4) Subsection (3) applies even if the law of the State or Territory does any one or more of the following, in relation to the offence or civil penalty:
 - (a) provides for a penalty that differs from the penalty provided for in this Act;
 - (b) provides for fault elements that differ from the fault elements applicable to the offence or civil penalty provision created by this Act;
 - (c) provides for defences or exceptions that differ from the defences or exceptions applicable to the offence or civil penalty provision created by this Act.

Part 2—Definitions

9 Definitions

In this Act:

acceptable ballast water exchange has the meaning given by section 275.

accompanying person for a child or incapable person means:

- (a) a parent, guardian or next of kin of the child or incapable person; or
- (b) a person authorised by a parent, guardian or next of kin of the child or incapable person under section 39.

acquisition of property has the same meaning as in paragraph 51(xxxi) of the Constitution.

adjacent premises warrant means a warrant issued as a result of the test in item 5 of the table in section 489 being met.

Administration of a vessel has the same meaning as in the Ballast Water Convention.

affected provisions has the meaning given by subsection 618(1).

Agriculture Department means the Department administered by the Agriculture Minister.

Agriculture Minister means the Minister administering the *Primary Industries Levies and Charges Collection Act 1991*.

Agriculture Secretary means the Secretary of the Agriculture Department.

aircraft means any machine or craft that can derive support in the atmosphere from the reactions of the air, other than the reactions of the air against the earth's surface.

Note: A reference to an aircraft does not include a reference to an aircraft brought or imported into Australian territory from outside Australian territory on board another conveyance until the aircraft is released from biosecurity control (see subsection 16(3)).

ALOP (short for Appropriate Level of Protection) has the meaning given by section 5.

animal includes a dead animal and any part of an animal, but does not include a human or a part of a human, whether the human is dead or alive.

appropriate ballast water records has the meaning given by section 295.

appropriate person means:

- (a) for premises to which an entry warrant or a premises possession warrant relates, or premises entered under a provision referred to in section 513—the occupier of the premises, or another person who apparently represents the occupier; or
- (b) for a conveyance to which a conveyance possession warrant relates—the person responsible for the conveyance, or another person who apparently represents the person responsible for the conveyance.

Note: If an entry warrant relates to a conveyance, the appropriate person is the person occupying the conveyance, or another person who apparently

represents that person (see paragraph (a) of the definition of *premises* in this section).

approved arrangement has the meaning given by section 10.

associate of a person has a meaning affected by section 11.

Australian law means a law of the Commonwealth, or of a State or Territory.

Australian seas means:

- (a) for Australian vessels and foreign vessels whose Administration is a party to the Ballast Water Convention—the waters (including the internal waters of Australia) that are within the outer limits of the exclusive economic zone of Australia; or
- (b) for all other foreign vessels—the Australian territorial seas.

Note: This definition is affected by sections 260 (vessels in dry dock) and 261 (foreign vessels and the Australian Antarctic Territory).

Australian territorial seas means the waters (including the internal waters of Australia) within the outer limits of the territorial sea of Australia (including every external Territory).

Note: This definition is affected by sections 260 (vessels in dry dock) and 261 (foreign vessels and the Australian Antarctic Territory).

Australian territory has the meaning given by section 12.

Australian vessel means a vessel that:

- (a) has Australian nationality under section 29 of the *Shipping Registration Act 1981*; or
- (b) is a vessel whose Administration is the Commonwealth.

baggage means goods:

- (a) that are carried on a conveyance by or for a person who is on board the conveyance (including the person in charge and members of the crew of the conveyance); or
- (b) that a person intended to be so carried.

Biodiversity Convention means the Convention on Biological Diversity, done at Rio de Janeiro on 5 June 1992, as in force for Australia from time to time.

Note: The Convention is in Australian Treaty Series 1993 No. 32 ([1993] ATS 32) and could in 2014 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

biosecurity activities, in relation to an approved arrangement, has the meaning given by section 405.

biosecurity activity zone has the meaning given by subsection 395(1).

biosecurity activity zone determination means a determination made under subsection 395(1).

biosecurity control notice, in relation to goods that are subject to biosecurity control or a conveyance that is subject to biosecurity control, means a notice in the form approved by the Director of Biosecurity that states that the goods or conveyance is subject to biosecurity control.

Note: See sections 129 and 203.

biosecurity control order means an order made under section 353.

biosecurity control order warrant means a warrant issued as a result of the test in item 2 of the table in section 489 being met.

biosecurity emergency means a biosecurity emergency that is declared to exist under subsection 443(1).

biosecurity emergency declaration means a declaration made under subsection 443(1).

biosecurity emergency period means the period specified under paragraph 443(3)(c) in a biosecurity emergency declaration as the period during which the declaration is in force.

biosecurity enforcement officer means a person who is authorised under section 546 or 548 to be a biosecurity enforcement officer under this Act.

biosecurity entry point has the meaning given by section 13.

biosecurity industry participant has the meaning given by section 14.

biosecurity measures means measures to manage any of the following:

- (a) biosecurity risks;
- (b) the risk of contagion of a listed human disease;
- (c) the risk of listed human diseases:
 - (i) entering Australian territory or a part of Australian territory; or
 - (ii) emerging, establishing themselves or spreading in Australian territory or a part of Australian territory;
- (d) biosecurity emergencies and human biosecurity emergencies.

biosecurity monitoring zone means:

- (a) a permanent biosecurity monitoring zone; or
- (b) a temporary biosecurity monitoring zone.

biosecurity monitoring zone warrant means a warrant issued as a result of the test in item 4 of the table in section 489 being met.

biosecurity officer means a person who is authorised under section 545 to be a biosecurity officer under this Act.

biosecurity official means any of the following:

- (a) a biosecurity officer;
- (b) a biosecurity enforcement officer;
- (c) the Director of Biosecurity.

biosecurity response zone has the meaning given by subsection 365(1).

Note: An area may be determined to be a biosecurity response zone under Part 5 of Chapter 6 during a biosecurity emergency period (see section 465).

biosecurity response zone determination means a determination made under subsection 365(1).

biosecurity response zone warrant means a warrant issued as a result of the test in item 3 of the table in section 489 being met.

biosecurity risk means (except as provided by section 310):

- (a) the likelihood of a disease or pest:
 - (i) entering Australian territory or a part of Australian territory; or
 - (ii) establishing itself or spreading in Australian territory or a part of Australian territory; and
- (b) the potential for any of the following:
 - (i) the disease or pest to cause harm to human, animal or plant health;
 - (ii) the disease or pest to cause harm to the environment;
 - (iii) economic consequences associated with the entry, establishment or spread of the disease or pest.

Note: Section 310 provides a modified meaning of **biosecurity risk** in relation to Chapter 6 (managing biosecurity risks: monitoring, control and response).

biosecurity risk assessment warrant means a warrant issued as a result of the test in item 1 of the table in section 489 being met.

BIRA (short for Biosecurity Import Risk Analysis) has the meaning given by section 166.

chief human biosecurity officer for a State or Territory means a person who is authorised under section 562 to be a chief human biosecurity officer for the State or Territory.

child or incapable person means:

- (a) a person who is less than 18 years old; or
- (b) a person who is at least 18 years old and either:
 - (i) is incapable (whether permanently or temporarily) of understanding the general nature and effect of, and purposes of carrying out, a biosecurity measure; or
 - (ii) is incapable (whether permanently or temporarily) of indicating whether he or she consents or does not consent to a biosecurity measure.

Christmas Island means the Territory of Christmas Island.

civil penalty provision has the same meaning as in the Regulatory Powers Act.

coastal sea of Australia or an external Territory has the same meaning as in subsection 15B(4) of the *Acts Interpretation Act 1901*.

Cocos (Keeling) Islands means the Territory of Cocos (Keeling) Islands.

commercialinconfidence has the meaning given by section 15.

Commonwealth body includes a Department of State, or an authority, of the Commonwealth.

competent authority has the meaning given by the International Health Regulations.

costrecovery charge means:

- (a) a fee prescribed by regulations made for the purposes of subsection 592(1) for a feebearing activity; or
- (b) a charge imposed by:
 - (i) the *Biosecurity Charges Imposition (Customs) Act 2015*; or
 - (ii) the *Biosecurity Charges Imposition (Excise) Act 2015*; or
 - (iii) the *Biosecurity Charges Imposition (General) Act 2015*; or
- (c) a late payment fee relating to a fee or charge described in paragraph (a) or (b).

Note: The references in paragraph (b) to the *Biosecurity Charges Imposition (Customs) Act 2015*, the *Biosecurity Charges Imposition (Excise) Act 2015* and the *Biosecurity Charges Imposition (General) Act 2015* include references to those Acts before their short titles were amended from the *Quarantine Charges (Imposition—Customs) Act 2014*, the *Quarantine Charges (Imposition—Excise) Act 2014* and the *Quarantine Charges (Imposition—General) Act 2014* respectively (see section 10 of the *Acts Interpretation Act 1901*).

declaration disease or pest, in relation to a biosecurity emergency declaration and a biosecurity emergency period, means the disease or pest specified under paragraph 443(3)(a) in the biosecurity emergency declaration that specifies the biosecurity emergency period.

declaration listed human disease, in relation to a human biosecurity emergency declaration and a human biosecurity emergency period, means the listed human disease specified under paragraph 475(3)(a) in the human biosecurity emergency declaration that specifies the human biosecurity emergency period.

Director of Biosecurity means the Director of Biosecurity referred to in section 540.

Director of Human Biosecurity means the Director of Human Biosecurity referred to in subsection 544(1).

disease means:

- (a) the signs or symptoms of an illness or infection caused by a disease agent;
or

- (b) a collection of signs or symptoms that is clinically defined, for which the causal agent is unknown; or
- (c) a disease agent that has the potential to cause, either directly or indirectly, an illness or infection.

disease agent includes, but is not limited to, a microorganism, an infectious agent and a parasite.

enactment means:

- (a) an Act of the Commonwealth, a State or a Territory; or
- (b) an instrument (including rules, regulations and bylaws) made under an Act of the Commonwealth, a State or a Territory.

engage in conduct means:

- (a) do an act; or
- (b) omit to perform an act.

entry warrant means any of the following warrants authorising entry to premises:

- (a) a biosecurity risk assessment warrant;
- (b) a biosecurity control order warrant;
- (c) a biosecurity response zone warrant;
- (d) a biosecurity monitoring zone warrant;
- (e) an adjacent premises warrant.

environment includes:

- (a) ecosystems and their constituent parts; and
- (b) natural and physical resources.

evidential burden, in relation to a matter, means the burden of adducing or pointing to evidence that suggests a reasonable possibility that the matter exists or does not exist.

Federal Circuit Court means the Federal Circuit Court of Australia.

Federal Court means the Federal Court of Australia.

feebearing activities has the meaning given by subsection 592(1).

first point of entry has the meaning given by section 18.

Foreign Affairs Department means the Department administered by the Minister administering the *Diplomatic Privileges and Immunities Act 1967*.

foreign vessel means a vessel that is not an Australian vessel.

goods has the meaning given by section 19.

harbour means a natural or artificial harbour, and includes:

- (a) a navigable estuary, river, creek or channel; and
- (b) a haven, roadstead, dock, pier or jetty; and
- (c) any other place in or at which vessels can obtain shelter or load and unload goods or embark and disembark passengers.

Health Department means the Department administered by the Health Minister.

Health Minister means the Minister administering the *National Health Act 1953*.

Health Secretary means the Secretary of the Health Department.

human biosecurity control order means an order imposed on an individual under section 60.

human biosecurity emergency means a human biosecurity emergency that is declared to exist under subsection 475(1).

human biosecurity emergency declaration means a declaration made under subsection 475(1).

human biosecurity emergency period means the period specified under paragraph 475(3)(c) in a human biosecurity emergency declaration as the period during which the declaration is in force.

human biosecurity officer means a person who is authorised under section 563 to be a human biosecurity officer under this Act.

human disease means a disease that has the potential:

- (a) to enter Australian territory or a part of Australian territory, or to emerge, establish itself or spread in Australian territory or a part of Australian territory; and
- (b) to cause harm to human health.

human health response zone has the meaning given by section 113.

human health risk means:

- (a) the likelihood of a disease or pest:
 - (i) entering Australian territory or a part of Australian territory; or
 - (ii) emerging, establishing itself or spreading in Australian territory or a part of Australian territory; and
- (b) the potential for either of the following:
 - (i) the disease or pest to cause harm to human health;
 - (ii) economic consequences associated with the entry, emergence, establishment or spread of the disease or pest, to the extent that the disease or pest has the potential to cause harm to human health.