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These are to be the amendments to the Biosecurity act 2015 4/09/2021 12:37:18 PM

To whom it may concern:

**Biosecurity Amendments (Enhanced Risk Management) Bill 2021
[provision]**

Committee Secretary

Senate Standing Committee on Rural and Regional Affairs and Transport

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In my submission: What do I require.?

1. I require you as a person and a group of persons as elected members of the Commonwealth of Australia that you uphold the Commonwealth of Australia Constitution 1900.
2. As I am aware we are still members of the Commonwealth with the laws relating to that.
3. As a Human living person voter of Australia, I require that these amendments not be instigated.

In a nutshell most of this is related to increases in penalties and fines.

The major changes are hidden further down the document. **Division 2—Making human biosecurity group directions**

This oversteps a human living person's rights regarding their body. It is virtually saying (any other listed human disease, not just the virus) a biosecurity officer can direct a person to undergo an examination. With consent. If you don't consent you can be fined.

As we are seeing, government bodies are NOT accepting NON CONSENT from human living persons in Australia.

I am giving notice of my non consent to the amendments to the bio security act 2021. As an elected member of parliament you have a responsibility to take my wishes into account.

Please find attached the amendments to this act and how they are expressed. *I Have strong misgiving related to this document.*

*I Have correlated the amendments that are being looked at with the existing document I would like to see these amendments **NOT** passed at the next reading or sitting.*

The penalties are exorbitant and unnecessary.

The changing of word "individual" to "group" related to orders is overstepping. These changes are arbitrary and are inconsistent with the rights of the Australian public.

Collection of body samples, without consent is a complete invasion of medical privacy.

Tuesday, 14 September 2021

Sending of this data to a third party goes against Privacy and Medical laws in Australia. (THE World Health Organisation is a corporation. I as a living sentient being hold not contract with this group. So any personal data or information is not to be shared). I personally believe the Australian public is being misled and misinformed by these changes without consultation or consent on our part. The Australian public have at no time contracted or mandated with any department to instigate these bills or acts... There has been no consultation on this Act, democracy is not being used in this situation, this act was passed without public awareness. Again no transparency, consultation or public input.

Section 644 Protection from Civil Proceedings. This needs to be removed. This section negates the responsibility of all decision makers related to this act. Where is the responsibility, transparency and The living persons' legal rights to prosecution against unlawful actions pertaining to these decisions? Groups of public servants are making rules and regulations against the best interest of all living human Australians.

Since the usurping of the Commonwealth of Australia and the Australian constitution. The corporation called the Australian parliament/government has been making decisions and choices against the Australian public. As a group you are accountable for these decisions. Where is the legality in protection from civil proceedings?

1. I am making you aware of my, **non-consent to the** Requirements for Body Samples, this is an infringement and violation of a human living person's body and medial privacy.
2. I am making you aware of my, **non-consent to** any government department or official giving any personal medical information to a third party without the consent of the **human living person** (what has happened to the Privacy Act?). (IS this why that is being amended also,) especially an international corporate body World Health Organisation which is an arm of the United Nations which we have seen to be inconsistent with the truth with their dealings with governments. We as human living persons have no idea of how this will be used for or against the Australian public.
3. One other issue with this is: Recommendation : Remove this section: politicians need to be held to account and have consequences when making decisions. The public are held accountable and have consequences placed upon them.

section 644, Protection from civil proceedings.. At no time have I (**a human living person**) mandated any government body to infringe on my personal body, Health and well-being. This is not constitutional related to the Commonwealth of Australia Constitution 1900.

I am making you aware of my decisions I **do not consent** to these arbitrary rules and regulations.

If these amendments are related to the Parliament of Australia (which is a corporation) I question the validity of these documents and the validity of the persons making these amendments and decisions.

The latter pages of this document are how the new amendments correlate with the existing document.

My major concerns are related to the things I have already specified.

**Thank you
Christine Nikolic**

The Red sections relate to the amendments and how the word changes affect the whole document.

This section seriously needs to be looked at in depth.

- 4. I have major concerns about the change of (individuals) to (group directions.)**
- 5. My second major concern is the highlighted (pages in grey.) Pages 8,9,10.**
- 6. Those being 108C Contents of human biosecurity group direction**

My proposal REMOVE 7 108N 1. (b)

Remove all civil penalties: Monetary and penalty units. These amount to coercion, threats manipulation and intimidation.

What are penalty units?(is this for when we become a cashless society become like a specific country that uses credits for their society

7. 108N Undergoing an examination

(1) Subject to this section, a human biosecurity group direction may require each individual included in the class of individuals specified in the direction to undergo a specified kind of examination relating to determining the presence in the individual of:

- (a) the listed human disease specified in the direction; and
- (b) any other listed human disease. (this could be any disease)

Note: For the manner in which this biosecurity measure must be carried out, see section 108R.

Consent

(2) The direction must specify:

- (a) each kind of examination that requires the consent of an individual before the individual undergoes the examination; and
- (b) how that consent is to be given.

(3) If the direction specifies a kind of examination as mentioned in paragraph (2)(a), the requirement to undergo that examination does not apply to an individual unless the individual consents to undergoing the examination. The individual's consent must be given in accordance with the direction.

Note: See also section 108J (which provides that this Part does not limit Part 3). Part 3 allows a human biosecurity control order to be imposed on an individual.

Remove 108P and everything pertaining to it,

108P Requiring body samples for diagnosis

(1) Subject to this section, a human biosecurity group direction may specify the circumstances in which each individual included in the class of individuals specified in the direction who has undergone an examination under section 108N is required to provide specified body samples for the purpose of determining the presence in the individual of:

- (a) the listed human disease specified in the direction; and
- (b) any other listed human disease.

Note: For the manner in which this biosecurity measure must be carried out, see section 108R. Subsection (4) of this section also contains requirements for body samples.

Consent

(2) The requirement to provide a body sample does not apply to an individual unless the individual consents to providing the body sample.

(3) The direction must specify how that consent is to be given. The individual's consent must be given in accordance with the direction.

Note: See also section 108J (which provides that this Part does not limit Part 3). Part 3 allows a human biosecurity control order to be imposed on an individual.

Requirements for body samples

(4) The regulations must prescribe requirements for taking, storing, transporting, labelling and using body samples provided under subsection (1).

Note: The regulations may prescribe offences and civil penalties in relation to a failure to comply with a prescribed requirement (see subsection 645(2))

645 Regulations

- (1) The Governor-General may make regulations prescribing matters:
- (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Offences and civil penalties

- (2) Without limiting subsection (1), the regulations may:
- (a) prescribe penalties for offences against the regulations that do not exceed 50 penalty units; and
 - (b) declare that specified provisions of the regulations are civil penalty provisions for the purposes of this Act, and prescribe penalties for contraventions of such provisions that do not exceed:
 - (i) for a body corporate—250 penalty units; or
 - (ii) in any other case—50 penalty units.

Requesting immediate removal of this section. Medical Privacy and Privacy act of Australia are acts relating to this situation. Living human Australians have not consented to this. I am making you aware of my non consent giving my personal health information to a third party.

Giving samples to the World Health Organization

(5) The Health Minister may, at the request of the World Health Organization, give all or part of a sample provided under subsection (1) to the Organization for the purposes of detecting, assessing or responding to a listed human disease.

8. 108S No use of force to require compliance with biosecurity measures

Force must not be used against an individual to require the individual to comply with a biosecurity measure imposed under any of sections 108K to 108Q.

I have read this new section also.

Recommendation: All states and governing bodies use one act Stop the implementation and inconsistencies as we have experienced in Australia of late, many of original sections within this act are not being adhered to by state governments.

Why is this act being overridden by state governments? Doesn't a federal act override a state legislation, bill or act if they are in conflict with each other.

Division 2—Making human biosecurity group directions

108B Making human biosecurity group directions

- (1) A chief human biosecurity officer or a human biosecurity officer may, in writing, make a direction that applies to each individual included in a class of individuals specified in the direction.

Note 1: There is a civil penalty for failing to comply with the direction: see section 108T.

Note 2: Before making a direction, the officer must be satisfied of the matters referred to in section 34 (the principles).

Note 3: The Director of Human Biosecurity must be notified of the making of the direction (see section 108H).

Class of individuals

- (2) The class of individuals must be all the individuals, or a group of individuals, who:
- (a) are on board an aircraft or a vessel that is in Australian territory; or
 - (b) the officer is satisfied are at a landing place or port in Australian territory, or at a place that is in close proximity to a landing place or port in Australian territory, where an aircraft or vessel has arrived at the landing place or port.
- (3) Without limiting paragraph (2)(b), the class of individuals for the purposes of that paragraph may be, or may include, all the individuals, or a group of individuals, who were on board the aircraft or vessel.

Ground for making direction

- (4) A chief human biosecurity officer or a human biosecurity officer may make a direction under this section only if the officer is satisfied that:

- (a) one or more individuals who are or were on the aircraft or vessel have one or more signs or symptoms of a listed human disease; or
- (b) one or more individuals who are or were on the aircraft or vessel have been exposed to:
 - (i) a listed human disease; or
 - (ii) one or more other individuals who have one or more signs or symptoms of a listed human disease.

Inclusion of biosecurity measures in direction

- (5) A chief human biosecurity officer or a human biosecurity officer may include one or more biosecurity measures specified in Division 3 in a direction under this section.
- (6) The officer may include a biosecurity measure in a direction under this section only if the officer is satisfied that the biosecurity measure contributes to managing the risk of:
 - (a) contagion of a listed human disease; or
 - (b) a listed human disease entering, or emerging, establishing itself or spreading in, Australian territory or a part of Australian territory.

108C Contents of human biosecurity group direction

- (1) A human biosecurity group direction must specify the following:
 - (a) the ground in subsection 108B(4) under which the direction is made;
 - (b) the listed human disease in relation to which the direction is made;
 - (c) any signs or symptoms of the listed human disease;
 - (d) a unique identifier for the direction;
 - (e) each biosecurity measure (specified in Division 3) with which each individual included in the class of individuals specified in the direction must comply, and an explanation of:
 - (i) why each biosecurity measure is required; and
 - (ii) in relation to a biosecurity measure included under section 108N (examination) or 108P (body samples)—how the biosecurity measure is to be undertaken;
 - (f) the period during which the direction is in force, which must not be more than 8 hours;
 - (g) the effect of section 108T (civil penalty for failing to comply with the direction);
 - (h) details of a chief human biosecurity officer who can be contacted for information and support in relation to the direction;
 - (i) any other information that the officer making the direction considers appropriate;
 - (j) any other information required by the regulations.
- (2) If a human biosecurity group direction (the *first direction*) ceases to be in force, paragraph (1)(f) does not prevent another human biosecurity group direction from being made in relation to a class of individuals covered by subsection 108B(2) (whether or not that class is the same class of individuals specified in the first direction).

108D Form of human biosecurity group direction

- (1) A human biosecurity group direction must be in the form approved, in writing, by the Director of Human Biosecurity.
- (2) A human biosecurity group direction is not a legislative instrument.

108E Notification of human biosecurity group direction

- (1) If a chief human biosecurity officer or a human biosecurity officer makes a human biosecurity group direction, then a chief human biosecurity officer, a human biosecurity officer or a biosecurity officer must give notification of the direction, and of the contents of the direction, to the class of individuals specified in the direction.

Note: There is a civil penalty for failing to comply with the direction: see section 108T.

- (2) However, if the class of individuals specified in the direction is on board the aircraft or vessel concerned, a chief human biosecurity officer, a human biosecurity officer or a biosecurity officer may require the person in charge of the aircraft or vessel to instead give notification of the direction, and of the contents of the direction, to that class.

Note: There is a civil penalty for failing to comply with the requirement: see section 108U.

- (3) A notification under subsection (1) or (2) must be given in accordance with the regulations and before the time the direction comes into force.

108F Varying a human biosecurity group direction

- (1) A chief human biosecurity officer or a human biosecurity officer may, in writing, vary a human biosecurity group direction.

Note 1: Before varying a human biosecurity group direction, the officer must be satisfied of the matters referred to in section 34 (the principles).

Note 2: The Director of Human Biosecurity must be notified of a variation of a human biosecurity group direction (see section 108H).

- (2) A variation cannot change the class of individuals specified in the direction and must be in relation to one or more of the matters covered by subsection 108C(1).

Direction may be extended by up to 4 hours

- (3) If a variation extends the period during which the direction is in force, the extension must not be more than 4 hours. The period during which the direction is in force may be extended only once.

Ground for varying human biosecurity group direction

- (4) A chief human biosecurity officer or a human biosecurity officer may vary a human biosecurity group direction only if the officer is satisfied that:
 - (a) the variation contributes to reducing the risk of:
 - (i) contagion of a listed human disease; or
 - (ii) a listed human disease entering, or emerging, establishing itself or spreading in, Australian territory or a part of Australian territory; or
 - (b) the variation removes or varies a provision that no longer contributes to reducing such a risk; or
 - (c) the variation is of a minor technical nature.

When variation takes effect

- (5) A variation must specify the time at which the variation takes effect.

Notification of variation

- (6) If a chief human biosecurity officer or a human biosecurity officer varies a human biosecurity group direction, then a chief human biosecurity officer, a human biosecurity

officer or a biosecurity officer must give notification of the variation, and of the contents of the variation, to the class of individuals specified in the direction.

Note: There is a civil penalty for failing to comply with the direction: see section 108T.

- (7) However, if the class of individuals specified in the direction is on board the aircraft or vessel concerned, a chief human biosecurity officer, a human biosecurity officer or a biosecurity officer may require the person in charge of the aircraft or vessel to instead give notification of the variation, and of the contents of the variation, to that class.

Note: There is a civil penalty for failing to comply with the requirement: see section 108U.

- (8) A notification under subsection (6) or (7) must be given in accordance with the regulations and before the time the variation takes effect.

108G Revoking a human biosecurity group direction

- (1) A chief human biosecurity officer or a human biosecurity officer may, in writing, revoke a human biosecurity group direction.

Note: The Director of Human Biosecurity must be notified of a revocation of a human biosecurity group direction (see section 108H).

Ground for revoking human biosecurity group direction

- (2) A chief human biosecurity officer or a human biosecurity officer may revoke a human biosecurity group direction only if the officer is satisfied that:
- (a) the class of individuals specified in the direction is not at risk of contagion; or
 - (b) the direction no longer contributes to reducing the risk of a listed human disease entering, or emerging, establishing itself or spreading in, Australian territory or a part of Australian territory; or
 - (c) in all the circumstances it is appropriate to revoke the direction.

When revocation takes effect

- (3) A revocation must specify the time at which the revocation takes effect.

Notification of revocation

- (4) If a chief human biosecurity officer or a human biosecurity officer revokes a human biosecurity group direction, then a chief human biosecurity officer, a human biosecurity officer or a biosecurity officer must give notification of the revocation to the class of individuals specified in the direction.
- (5) However, if the class of individuals specified in the direction is on board the aircraft or vessel concerned, a chief human biosecurity officer, a human biosecurity officer or a biosecurity officer may require the person in charge of the aircraft or vessel to instead give notification of the revocation to that class.

Note: There is a civil penalty for failing to comply with the requirement: see section 108U.

- (6) A notification under subsection (4) or (5) must be given in accordance with the regulations and before the time the revocation takes effect.

108H Notifying Director of Human Biosecurity of making, varying or revoking of human biosecurity group direction

A chief human biosecurity officer or a human biosecurity officer must notify the Director of Human Biosecurity, as soon as reasonably practicable, if the officer:

- (a) makes a human biosecurity group direction; or
- (b) varies or revokes a human biosecurity group direction.

108J Relationship with Part 3

- (1) This Part does not limit Part 3.

Note: Part 3 allows a human biosecurity control order to be imposed on an individual.

- (2) If, while a human biosecurity group direction is in force, a human biosecurity control order is imposed on an individual included in the class of individuals specified in the direction, then, for the purposes of this Part, at the time that order comes into force, that individual ceases to be included in that class.

Division 3—Biosecurity measures that may be included in a human biosecurity group direction

108K Managing information

Contact information

- (1) A human biosecurity group direction may require each individual (the *relevant individual*) included in the class of individuals specified in the direction to provide to a specified biosecurity officer, human biosecurity officer or chief human biosecurity officer, within the period and in the way specified in the direction, the prescribed contact information for any individual:
 - (a) with whom the relevant individual has been, or will be, in close proximity; and
 - (b) for whom the relevant individual is aware of that contact information.

Note 1: This section constitutes an authorisation for the purposes of the *Privacy Act 1988* and other laws.

Note 2: This section is not subject to the privilege against self-incrimination (see section 635).

Location information

- (2) A human biosecurity group direction may require each individual included in the class of individuals specified in the direction to provide to a specified biosecurity officer, human biosecurity officer or chief human biosecurity officer, within the period and in the way specified in the direction, information prescribed by the regulations relating to the past location of the individual.

Note: This section is not subject to the privilege against self-incrimination (see section 635).

108L Managing location of individuals

- (1) A human biosecurity group direction may require each individual included in the class of individuals specified in the direction to remain at, or to go to and remain at, a specified place for a specified period.
- (2) A human biosecurity group direction may require each individual included in the class of individuals specified in the direction to not visit a specified place, or specified class of place, for a specified period.

108M Wearing of protective clothing and equipment

- (1) Subject to this section, a human biosecurity group direction may require each individual included in the class of individuals specified in the direction to wear either or both

specified clothing and equipment that is designed to prevent a disease from emerging, establishing itself or spreading.

- (2) The direction must specify the following:
 - (a) the circumstances in which each individual included in the class of individuals specified in the direction is required to wear the clothing or equipment;
 - (b) the period during which, or the times at which, each individual included in the class of individuals specified in the direction is required to wear the clothing or equipment;
 - (c) instructions for wearing the clothing or equipment.

Exemptions

- (3) A chief human biosecurity officer or a human biosecurity officer may give an individual included in the class of individuals specified in the direction an exemption from the requirement referred to in subsection (1).
- (4) If an exemption is given in writing, the exemption is not a legislative instrument.

108N Undergoing an examination

(1) Subject to this section, a human biosecurity group direction may require each individual included in the class of individuals specified in the direction to undergo a specified kind of examination relating to determining the presence in the individual of:

- (a) the listed human disease specified in the direction; and
- (b) any other listed human disease.

Note: For the manner in which this biosecurity measure must be carried out, see section 108R.

Consent

- (2) The direction must specify:
 - (a) each kind of examination that requires the consent of an individual before the individual undergoes the examination; and
 - (b) how that consent is to be given.

(3) If the direction specifies a kind of examination as mentioned in paragraph (2)(a), the requirement to undergo that examination does not apply to an individual unless the individual consents to undergoing the examination. The individual's consent must be given in accordance with the direction.

Note: See also section 108J (which provides that this Part does not limit Part 3). Part 3 allows a human biosecurity control order to be imposed on an individual.

108P Requiring body samples for diagnosis

(1) Subject to this section, a human biosecurity group direction may specify the circumstances in which each individual included in the class of individuals specified in the direction who has undergone an examination under section 108N is required to provide specified body samples for the purpose of determining the presence in the individual of:

- (a) the listed human disease specified in the direction; and
- (b) any other listed human disease.

Note: For the manner in which this biosecurity measure must be carried out, see section 108R. Subsection (4) of this section also contains requirements for body samples.

Consent

- (2) The requirement to provide a body sample does not apply to an individual unless the individual consents to providing the body sample.
- (3) The direction must specify how that consent is to be given. The individual's consent must be given in accordance with the direction.

Note: See also section 108J (which provides that this Part does not limit Part 3). Part 3 allows a human biosecurity control order to be imposed on an individual.

Requirements for body samples

- (4) The regulations must prescribe requirements for taking, storing, transporting, labelling and using body samples provided under subsection (1).

Note: The regulations may prescribe offences and civil penalties in relation to a failure to comply with a prescribed requirement (see subsection 645(2)).

Giving samples to the World Health Organization

- (5) The Health Minister may, at the request of the World Health Organization, give all or part of a sample provided under subsection (1) to the Organization for the purposes of detecting, assessing or responding to a listed human disease.

108Q No loading or unloading of items from the aircraft or vessel

- (1) A human biosecurity group direction may prohibit each individual included in the class of individuals specified in the direction from loading or unloading specified items from the aircraft or vessel concerned unless the loading or unloading is in accordance with a permission under subsection (2).

Permissions

- (2) A chief human biosecurity officer, a human biosecurity officer or a biosecurity officer may give a permission for the purposes of subsection (1).
- (3) If a permission is given in writing, the permission is not a legislative instrument.

108R Appropriate medical or other standards to be applied

A biosecurity measure set out in section 108N (examination) or 108P (body samples) must be carried out in a manner consistent with either or both of the following (as the case requires):

- (a) appropriate medical standards;
- (b) appropriate other relevant professional standards.

108S No use of force to require compliance with biosecurity measures

Force must not be used against an individual to require the individual to comply with a biosecurity measure imposed under any of sections 108K to 108Q.

Division 4—Civil penalties

108T Civil penalty for failing to comply with a human biosecurity group direction

An individual is liable to a civil penalty if:

- (a) a human biosecurity group direction is in force; and

- (b) the individual is included in the class of individuals specified in the direction; and
- (c) there has been notification of the direction in accordance with section 108E and, if the direction has been varied, there has been notification of the variation in accordance with section 108F; and
- (d) the individual fails to comply with a biosecurity measure included in the human biosecurity group direction that applies to the individual.

Civil penalty: 30 penalty units.

108U Civil penalty for person in charge of aircraft or vessel failing to give notification of human biosecurity group direction etc.

A person is liable to a civil penalty if:

- (a) the person is in charge of an aircraft or vessel; and
- (b) the person is required under subsection 108E(2), 108F(7) or 108G(5) to give a notification; and
- (c) the person fails to give the notification in accordance with subsection 108E(3), 108F(8) or 108G(6).

Civil penalty: 300 penalty units.

Division 5—Consular assistance

108V Consular assistance

- (1) This section sets out requirements that must be complied with if:
 - (a) a chief human biosecurity officer or a human biosecurity officer makes a human biosecurity group direction; and
 - (b) the direction includes a requirement that each individual included in the class of individuals specified in the direction remain at, or go to and remain at, a specified place for a specified period; and
 - (c) the officer is aware that an individual in that class is not an Australian citizen.
- (2) As soon as reasonably practicable after making the direction, the officer must do the following:
 - (a) inform the individual that the individual may request that the consular office of the following country be notified of the requirement:
 - (i) the country of which the individual is a citizen;
 - (ii) the country to which the individual claims a special connection;
 - (b) inform the individual that the individual may communicate, or attempt to communicate, with that consular office;

19 Application provisions

- (1) The amendments of section 38 of the *Biosecurity Act 2015* made by this Part apply in relation to a direction given under that section on or after the commencement of this item.
- (2) Paragraph 108B(2)(a) of the *Biosecurity Act 2015*, as inserted by this Part, applies in relation to an aircraft or vessel that is in Australian territory on or after the commencement of this item, whether the aircraft or vessel entered Australian territory before, on or after that commencement.

- (3) Paragraph 108B(2)(b) of the *Bioresecurity Act 2015*, as inserted by this Part, applies in relation to an aircraft or vessel that arrives at a landing place or port in Australian territory on or after the commencement of this item.

Chapter 2 Managing biosecurity risks: human health

Part 2 Preventing risks to human health

Division 4 Pratique

Section 48 Division 4—Pratique

48 Positive pratique

(1) An operator of an incoming aircraft or vessel that arrives (or the person in charge of an incoming aircraft or vessel) at a landing place or port in Australian territory in accordance with Division 2 or 3 of Part 4 of Chapter 4 must not allow:

- (a) any thing to be unloaded from or loaded onto the aircraft or vessel; or
- (b) any person to disembark from or embark onto the aircraft or vessel;

unless pratique has been granted under subsection (2) or 49(4).

Repeal this Civil penalty: 120 penalty units.

Substitute; Civil Penalty (a) for an operator of the aircraft or vessel -1000 penalty units

or (b) for the person in charge of the aircraft or vessel – 300 penalty units

Note: Even if pratique has been granted, a person may still be prevented from unloading goods under Division 6 of Part 1 of Chapter 3.

(2) Pratique is granted in relation to an incoming aircraft or vessel by force of this subsection at the time the aircraft or vessel arrives at a landing place or port in Australian territory, unless the aircraft or vessel is in a class of aircraft or vessels specified for the purposes of paragraph 49(1)(a).

(3) Subsection (1) does not apply to the unloading or loading of a thing, or the disembarkation or embarkation of a person, that is authorised by or under this Act or another Australian law.

Note: A defendant bears an evidential burden in relation to the matter in this subsection (see section 96 of the Regulatory Powers Act).

Part 3—Managing risks to human health: human biosecurity control orders

Division 1—Introduction

59 Simplified outline of this Part

Under Division 2, a human biosecurity control order can be imposed on an individual if the individual may have a listed human disease.

A human biosecurity control order that is in force in relation to an individual may require the individual to comply with certain biosecurity measures. Division 3 sets out what those measures are, and they include vaccination, restricting the individual's behaviour and ordering the individual to remain isolated.

An individual may consent to a biosecurity measure included in a human biosecurity control order that is in force in relation to the individual.

An individual who refuses to consent to such a measure (other than an isolation measure or traveller movement measure) is not required to comply unless a direction has been given by the Director of Human Biosecurity requiring the individual to do so. An individual must comply with an isolation measure or a traveller movement measure for the first 72 hours while a direction from the Director of Human Biosecurity is being sought. After that time, the individual is required to comply with the measure only if a direction is given by the Director.

Biosecurity measures that are included in a human biosecurity control order are treated in one of 2 ways. For some biosecurity measures, an individual who is given a direction from the Director of Human Biosecurity to comply with the measure must do so immediately. For other biosecurity measures, an individual is given a period to apply for judicial review before being required to comply with the measure.

4 Section 3

Omit "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.", substitute "Methods of managing risks to human health include imposing a human biosecurity control order on an individual, and making a human biosecurity group direction for a class of individuals, who have, or have been exposed to, a listed human disease."

60 Imposing a human biosecurity control order on an individual

- (1) The following officers may impose a human biosecurity control order on an individual:
 - (a) a chief human biosecurity officer;
 - (b) a human biosecurity officer;
 - (c) a biosecurity officer.

Note 1: An officer who intends to impose a human biosecurity control order on an individual has certain powers under sections 68 and 69.

Note 2: Before imposing a human biosecurity control order, an officer must be satisfied of the matters referred to in section 34 (the principles).

Note 3: The Director of Human Biosecurity must be notified of the imposition of a human biosecurity control order (see section 67).

- (2) A human biosecurity control order may be imposed on an individual only if the officer is satisfied that:
 - (a) the individual has one or more signs or symptoms of a listed human disease; or
 - (b) the individual has been exposed to:

- (i) a listed human disease; or
 - (ii) another individual who has one or more signs or symptoms of a listed human disease; or
 - (c) the individual has failed to comply with an entry requirement in subsection 44(6) in relation to a listed human disease.
- (3) To avoid doubt, an individual may fail to comply with an entry requirement in subsection 44(6) even if the individual is not able to comply with the requirement.
- (4) An officer may include one or more biosecurity measures specified in Subdivision B of Division 3 in a human biosecurity control order.

Note: For the biosecurity measures that each kind of officer can impose, see section 82.

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Part 2 Director of Biosecurity

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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.

To be inserted

Human biosecurity group direction means a direction made under section 108 B

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:

prescribed contact information means:

- (a) in relation to section 47—the contact information prescribed by the regulations for the purposes of that section; and
- (b) in relation to section 69—the contact information prescribed by the regulations for the purposes of that section; and
- (c) in relation to section 85—the contact information prescribed by the regulations for the purposes of that section.

Insert add (d) in relation to subsection 108K (1)- the contact information prescribed by regulations for the purpose of subsection.

Division 2—Protections

Subdivision A—General protections

34 The principles

- (1) This section applies (subject to subsections (3) and (4)) to a person who is making a decision to exercise a power in relation to, or impose a biosecurity measure on, an individual **After “an individual”, insert “or a class of individuals”**.

35 No interference with urgent or life-threatening medical needs

The exercise of a power, or the imposition of a biosecurity measure, in relation to an individual **After “an individual”, insert “or a class of individuals”**.

under this Chapter must not interfere with any urgent or life-threatening medical needs of the individual. **Add “or an individual in that class”**.

38 Requirement to comply with direction

- (1) A biosecurity officer, human biosecurity officer or chief human biosecurity officer may give a direction to an accompanying person for a child or incapable person.

Note: See also section 572 (general provisions relating to directions).

- (2) The direction must be for the purpose of ensuring the compliance of the child or incapable person with a requirement under this Chapter.
- (3) An accompanying person who is given a direction under subsection (1) must comply with the direction.

Fault-based offence

- (4) A person commits an offence if:
 - (a) the person is an accompanying person; and
 - (b) the person is given a direction under this section; and

10 After paragraph 38(4)(b)

Insert: (ba) the direction is given in relation to a requirement that is not included in a human biosecurity group direction; and

- (c) the person fails to comply with the direction.

Penalty: Imprisonment for 5 years or 300 penalty units, or both.

At the end of section 38

Add: *Civil penalty provision*

- (5) A person is liable to a civil penalty if:
 - (a) the person is an accompanying person; and
 - (b) the person is given a direction under this section; and
 - (c) the direction is given in relation to a requirement that is included in a human biosecurity group direction; and
 - (d) the person fails to comply with the direction under this section.

Civil penalty: 30 penalty units.

40 Giving consent

- (1) An accompanying person for a child or incapable person may give consent on behalf of the child or incapable person for the purposes of Part 3 of this Chapter (human biosecurity control orders).

At the end of subsection 40(1)

Add “or Part 3A of this Chapter (human biosecurity group directions)”.

55 Asking questions and requiring answers from particular individuals

- (1) An officer may require an individual to answer questions, or provide written information, if:
 - (a) a human biosecurity control order is in force in relation to the individual; or

After paragraph 55(1)(a)

Insert:

- (aa) the individual is included in the class of individuals specified in a human biosecurity group direction that is in force; or
- (b) the individual is in a human health response zone.

Note 1: If written information is required, see section 57.

Note 2: A person may commit an offence or contravene a civil penalty provision if the person provides false or misleading information or documents (see sections 137.1 and 137.2 of the *Criminal Code* and sections 532 and 533 of this Act).

- (2) The requirement under subsection (1) must be for the purposes of determining the level of risk to human health associated with the individual.

60 Imposing a human biosecurity control order on an individual

- (1) The following officers may impose a human biosecurity control order on an individual:
 - (a) a chief human biosecurity officer;
 - (b) a human biosecurity officer;
 - (c) a biosecurity officer.

Note 1: An officer who intends to impose a human biosecurity control order on an individual has certain powers under sections 68 and 69.

Note 2: Before imposing a human biosecurity control order, an officer must be satisfied of the matters referred to in section 34 (the principles).

Note 3: The Director of Human Biosecurity must be notified of the imposition of a human biosecurity control order (see section 67).

At the end of subsection 60(1)

Add:

Note 4: If, while a human biosecurity group direction is in force, a human biosecurity control order is imposed on an individual included in the class of individuals specified in the direction, then, at the time that order comes into force, that individual ceases to be included in that class: see subsection 108J(2).

16 After Part 3 of Chapter 2

Insert:

Part 3A—Managing risks to human health: human biosecurity group directions

Division 1—Introduction

108A Simplified outline of this Part

Under Division 2, a chief human biosecurity officer or a human biosecurity officer can make a human biosecurity group direction covering a class of individuals who:

- (a) are on board an aircraft or a vessel that is in Australian territory; or
- (b) the officer is satisfied are at a landing place or port in Australian territory, or at a place that is in close proximity to a landing place or port in Australian territory, where an aircraft or vessel has arrived at the landing place or port.

The officer must be satisfied that one or more individuals who are or were on the aircraft or vessel have, or have been exposed to, a listed human disease.

The direction may require each individual in that class to comply with certain biosecurity measures. Division 3 sets out what those measures are, and they include restricting each individual's behaviour.

The direction is in force for no more than 8 hours (but may be extended once by no more than 4 hours).

There is a civil penalty for an individual in that class who does not comply with the direction.

Division 2—Making human biosecurity group directions

108B Making human biosecurity group directions

- (1) A chief human biosecurity officer or a human biosecurity officer may, in writing, make a direction that applies to each individual included in a class of individuals specified in the direction.

Note 1: There is a civil penalty for failing to comply with the direction: see section 108T.

Note 2: Before making a direction, the officer must be satisfied of the matters referred to in section 34 (the principles).

Note 3: The Director of Human Biosecurity must be notified of the making of the direction (see section 108H).

Class of individuals

- (2) The class of individuals must be all the individuals, or a group of individuals, who:
 - (a) are on board an aircraft or a vessel that is in Australian territory; or
 - (b) the officer is satisfied are at a landing place or port in Australian territory, or at a place that is in close proximity to a landing place or port in Australian territory, where an aircraft or vessel has arrived at the landing place or port.
- (3) Without limiting paragraph (2)(b), the class of individuals for the purposes of that paragraph may be, or may include, all the individuals, or a group of individuals, who were on board the aircraft or vessel.

Ground for making direction

- (4) A chief human biosecurity officer or a human biosecurity officer may make a direction under this section only if the officer is satisfied that:
- (a) one or more individuals who are or were on the aircraft or vessel have one or more signs or symptoms of a listed human disease; or
 - (b) one or more individuals who are or were on the aircraft or vessel have been exposed to:
 - (i) a listed human disease; or
 - (ii) one or more other individuals who have one or more signs or symptoms of a listed human disease.

Inclusion of biosecurity measures in direction

- (5) A chief human biosecurity officer or a human biosecurity officer may include one or more biosecurity measures specified in Division 3 in a direction under this section.
- (6) The officer may include a biosecurity measure in a direction under this section only if the officer is satisfied that the biosecurity measure contributes to managing the risk of:
- (a) contagion of a listed human disease; or
 - (b) a listed human disease entering, or emerging, establishing itself or spreading in, Australian territory or a part of Australian territory.

108C Contents of human biosecurity group direction

- (1) A human biosecurity group direction must specify the following:
- (a) the ground in subsection 108B(4) under which the direction is made;
 - (b) the listed human disease in relation to which the direction is made;
 - (c) any signs or symptoms of the listed human disease;
 - (d) a unique identifier for the direction;
 - (e) each biosecurity measure (specified in Division 3) with which each individual included in the class of individuals specified in the direction must comply, and an explanation of:
 - (i) why each biosecurity measure is required; and
 - (ii) in relation to a biosecurity measure included under section 108N (examination) or 108P (body samples)—how the biosecurity measure is to be undertaken;
 - (f) the period during which the direction is in force, which must not be more than 8 hours;
 - (g) the effect of section 108T (civil penalty for failing to comply with the direction);
 - (h) details of a chief human biosecurity officer who can be contacted for information and support in relation to the direction;
 - (i) any other information that the officer making the direction considers appropriate;
 - (j) any other information required by the regulations.
- (2) If a human biosecurity group direction (the *first direction*) ceases to be in force, paragraph (1)(f) does not prevent another human biosecurity group direction from being made in relation to a class of individuals covered by subsection 108B(2) (whether or not that class is the same class of individuals specified in the first direction).

108D Form of human biosecurity group direction

- (1) A human biosecurity group direction must be in the form approved, in writing, by the Director of Human Biosecurity.
- (2) A human biosecurity group direction is not a legislative instrument.

108E Notification of human biosecurity group direction

- (1) If a chief human biosecurity officer or a human biosecurity officer makes a human biosecurity group direction, then a chief human biosecurity officer, a human biosecurity officer or a biosecurity officer must give notification of the direction, and of the contents of the direction, to the class of individuals specified in the direction.

Note: There is a civil penalty for failing to comply with the direction: see section 108T.

- (2) However, if the class of individuals specified in the direction is on board the aircraft or vessel concerned, a chief human biosecurity officer, a human biosecurity officer or a biosecurity officer may require the person in charge of the aircraft or vessel to instead give notification of the direction, and of the contents of the direction, to that class.

Note: There is a civil penalty for failing to comply with the requirement: see section 108U.

- (3) A notification under subsection (1) or (2) must be given in accordance with the regulations and before the time the direction comes into force.

108F Varying a human biosecurity group direction

- (1) A chief human biosecurity officer or a human biosecurity officer may, in writing, vary a human biosecurity group direction.

Note 1: Before varying a human biosecurity group direction, the officer must be satisfied of the matters referred to in section 34 (the principles).

Note 2: The Director of Human Biosecurity must be notified of a variation of a human biosecurity group direction (see section 108H).

- (2) A variation cannot change the class of individuals specified in the direction and must be in relation to one or more of the matters covered by subsection 108C(1).

Direction may be extended by up to 4 hours

- (3) If a variation extends the period during which the direction is in force, the extension must not be more than 4 hours. The period during which the direction is in force may be extended only once.

Ground for varying human biosecurity group direction

- (4) A chief human biosecurity officer or a human biosecurity officer may vary a human biosecurity group direction only if the officer is satisfied that:
 - (a) the variation contributes to reducing the risk of:
 - (i) contagion of a listed human disease; or
 - (ii) a listed human disease entering, or emerging, establishing itself or spreading in, Australian territory or a part of Australian territory; or
 - (b) the variation removes or varies a provision that no longer contributes to reducing such a risk; or
 - (c) the variation is of a minor technical nature.

When variation takes effect

- (5) A variation must specify the time at which the variation takes effect.

Notification of variation

- (6) If a chief human biosecurity officer or a human biosecurity officer varies a human biosecurity group direction, then a chief human biosecurity officer, a human biosecurity officer or a biosecurity officer must give notification of the variation, and of the contents of the variation, to the class of individuals specified in the direction.

Note: There is a civil penalty for failing to comply with the direction: see section 108T.

- (7) However, if the class of individuals specified in the direction is on board the aircraft or vessel concerned, a chief human biosecurity officer, a human biosecurity officer or a biosecurity officer may require the person in charge of the aircraft or vessel to instead give notification of the variation, and of the contents of the variation, to that class.

Note: There is a civil penalty for failing to comply with the requirement: see section 108U.

- (8) A notification under subsection (6) or (7) must be given in accordance with the regulations and before the time the variation takes effect.

108G Revoking a human biosecurity group direction

- (1) A chief human biosecurity officer or a human biosecurity officer may, in writing, revoke a human biosecurity group direction.

Note: The Director of Human Biosecurity must be notified of a revocation of a human biosecurity group direction (see section 108H).

Ground for revoking human biosecurity group direction

- (2) A chief human biosecurity officer or a human biosecurity officer may revoke a human biosecurity group direction only if the officer is satisfied that:
- (a) the class of individuals specified in the direction is not at risk of contagion; or
 - (b) the direction no longer contributes to reducing the risk of a listed human disease entering, or emerging, establishing itself or spreading in, Australian territory or a part of Australian territory; or
 - (c) in all the circumstances it is appropriate to revoke the direction.

When revocation takes effect

- (3) A revocation must specify the time at which the revocation takes effect.

Notification of revocation

- (4) If a chief human biosecurity officer or a human biosecurity officer revokes a human biosecurity group direction, then a chief human biosecurity officer, a human biosecurity officer or a biosecurity officer must give notification of the revocation to the class of individuals specified in the direction.

- (5) However, if the class of individuals specified in the direction is on board the aircraft or vessel concerned, a chief human biosecurity officer, a human biosecurity officer or a biosecurity officer may require the person in charge of the aircraft or vessel to instead give notification of the revocation to that class.

Note: There is a civil penalty for failing to comply with the requirement: see section 108U.

- (6) A notification under subsection (4) or (5) must be given in accordance with the regulations and before the time the revocation takes effect.

108H Notifying Director of Human Biosecurity of making, varying or revoking of human biosecurity group direction

A chief human biosecurity officer or a human biosecurity officer must notify the Director of Human Biosecurity, as soon as reasonably practicable, if the officer:

- (a) makes a human biosecurity group direction; or
- (b) varies or revokes a human biosecurity group direction.

108J Relationship with Part 3

- (1) This Part does not limit Part 3.

Note: Part 3 allows a human biosecurity control order to be imposed on an individual.

- (2) If, while a human biosecurity group direction is in force, a human biosecurity control order is imposed on an individual included in the class of individuals specified in the direction, then, for the purposes of this Part, at the time that order comes into force, that individual ceases to be included in that class.

Division 3—Biosecurity measures that may be included in a human biosecurity group direction

108K Managing information

Contact information

- (1) A human biosecurity group direction may require each individual (the **relevant individual**) included in the class of individuals specified in the direction to provide to a specified biosecurity officer, human biosecurity officer or chief human biosecurity officer, within the period and in the way specified in the direction, the prescribed contact information for any individual:
 - (a) with whom the relevant individual has been, or will be, in close proximity; and
 - (b) for whom the relevant individual is aware of that contact information.

Note 1: This section constitutes an authorisation for the purposes of the *Privacy Act 1988* and other laws.

Note 2: This section is not subject to the privilege against self-incrimination (see section 635).

Location information

- (2) A human biosecurity group direction may require each individual included in the class of individuals specified in the direction to provide to a specified biosecurity officer, human biosecurity officer or chief human biosecurity officer, within the period and in the way specified in the direction, information prescribed by the regulations relating to the past location of the individual.

Note: This section is not subject to the privilege against self-incrimination (see section 635).

108L Managing location of individuals

- (1) A human biosecurity group direction may require each individual included in the class of individuals specified in the direction to remain at, or to go to and remain at, a specified place for a specified period.

- (2) A human biosecurity group direction may require each individual included in the class of individuals specified in the direction to not visit a specified place, or specified class of place, for a specified period.

108M Wearing of protective clothing and equipment

- (1) Subject to this section, a human biosecurity group direction may require each individual included in the class of individuals specified in the direction to wear either or both specified clothing and equipment that is designed to prevent a disease from emerging, establishing itself or spreading.
- (2) The direction must specify the following:
 - (a) the circumstances in which each individual included in the class of individuals specified in the direction is required to wear the clothing or equipment;
 - (b) the period during which, or the times at which, each individual included in the class of individuals specified in the direction is required to wear the clothing or equipment;
 - (c) instructions for wearing the clothing or equipment.

Exemptions

- (3) A chief human biosecurity officer or a human biosecurity officer may give an individual included in the class of individuals specified in the direction an exemption from the requirement referred to in subsection (1).
- (4) If an exemption is given in writing, the exemption is not a legislative instrument.

108N Undergoing an examination

- (1) Subject to this section, a human biosecurity group direction may require each individual included in the class of individuals specified in the direction to undergo a specified kind of examination relating to determining the presence in the individual of:
 - (a) the listed human disease specified in the direction; and
 - (b) any other listed human disease.

Note: For the manner in which this biosecurity measure must be carried out, see section 108R.

Consent

- (2) The direction must specify:
 - (a) each kind of examination that requires the consent of an individual before the individual undergoes the examination; and
 - (b) how that consent is to be given.
- (3) If the direction specifies a kind of examination as mentioned in paragraph (2)(a), the requirement to undergo that examination does not apply to an individual unless the individual consents to undergoing the examination. The individual's consent must be given in accordance with the direction.

Note: See also section 108J (which provides that this Part does not limit Part 3). Part 3 allows a human biosecurity control order to be imposed on an individual.

108P Requiring body samples for diagnosis

- (1) Subject to this section, a human biosecurity group direction may specify the circumstances in which each individual included in the class of individuals specified in the direction who has undergone an examination under section 108N is required to

provide specified body samples for the purpose of determining the presence in the individual of:

- (a) the listed human disease specified in the direction; and
- (b) any other listed human disease.

Note: For the manner in which this biosecurity measure must be carried out, see section 108R. Subsection (4) of this section also contains requirements for body samples.

Consent

- (2) The requirement to provide a body sample does not apply to an individual unless the individual consents to providing the body sample.
- (3) The direction must specify how that consent is to be given. The individual's consent must be given in accordance with the direction.

Note: See also section 108J (which provides that this Part does not limit Part 3). Part 3 allows a human biosecurity control order to be imposed on an individual.

Requirements for body samples

- (4) The regulations must prescribe requirements for taking, storing, transporting, labelling and using body samples provided under subsection (1).

Note: The regulations may prescribe offences and civil penalties in relation to a failure to comply with a prescribed requirement (see subsection 645(2)).

Giving samples to the World Health Organization

- (5) The Health Minister may, at the request of the World Health Organization, give all or part of a sample provided under subsection (1) to the Organization for the purposes of detecting, assessing or responding to a listed human disease.

108Q No loading or unloading of items from the aircraft or vessel

- (1) A human biosecurity group direction may prohibit each individual included in the class of individuals specified in the direction from loading or unloading specified items from the aircraft or vessel concerned unless the loading or unloading is in accordance with a permission under subsection (2).

Permissions

- (2) A chief human biosecurity officer, a human biosecurity officer or a biosecurity officer may give a permission for the purposes of subsection (1).
- (3) If a permission is given in writing, the permission is not a legislative instrument.

108R Appropriate medical or other standards to be applied

A biosecurity measure set out in section 108N (examination) or 108P (body samples) must be carried out in a manner consistent with either or both of the following (as the case requires):

- (a) appropriate medical standards;
- (b) appropriate other relevant professional standards.

108S No use of force to require compliance with biosecurity measures

Force must not be used against an individual to require the individual to comply with a biosecurity measure imposed under any of sections 108K to 108Q.

Division 4—Civil penalties

108T Civil penalty for failing to comply with a human biosecurity group direction

An individual is liable to a civil penalty if:

- (a) a human biosecurity group direction is in force; and
- (b) the individual is included in the class of individuals specified in the direction; and
- (c) there has been notification of the direction in accordance with section 108E and, if the direction has been varied, there has been notification of the variation in accordance with section 108F; and
- (d) the individual fails to comply with a biosecurity measure included in the human biosecurity group direction that applies to the individual.

Civil penalty: 30 penalty units.

108U Civil penalty for person in charge of aircraft or vessel failing to give notification of human biosecurity group direction etc.

A person is liable to a civil penalty if:

- (a) the person is in charge of an aircraft or vessel; and
- (b) the person is required under subsection 108E(2), 108F(7) or 108G(5) to give a notification; and
- (c) the person fails to give the notification in accordance with subsection 108E(3), 108F(8) or 108G(6).

Civil penalty: 300 penalty units.

Division 5—Consular assistance

108V Consular assistance

- (1) This section sets out requirements that must be complied with if:
 - (a) a chief human biosecurity officer or a human biosecurity officer makes a human biosecurity group direction; and
 - (b) the direction includes a requirement that each individual included in the class of individuals specified in the direction remain at, or go to and remain at, a specified place for a specified period; and
 - (c) the officer is aware that an individual in that class is not an Australian citizen.
- (2) As soon as reasonably practicable after making the direction, the officer must do the following:
 - (a) inform the individual that the individual may request that the consular office of the following country be notified of the requirement:
 - (i) the country of which the individual is a citizen;
 - (ii) the country to which the individual claims a special connection;
 - (b) inform the individual that the individual may communicate, or attempt to communicate, with that consular office;

19 Application provisions

- (1) The amendments of section 38 of the *Biosecurity Act 2015* made by this Part apply in relation to a direction given under that section on or after the commencement of this item.

- (2) Paragraph 108B(2)(a) of the *Bioresecurity Act 2015*, as inserted by this Part, applies in relation to an aircraft or vessel that is in Australian territory on or after the commencement of this item, whether the aircraft or vessel entered Australian territory before, on or after that commencement.
- (3) Paragraph 108B(2)(b) of the *Bioresecurity Act 2015*, as inserted by this Part, applies in relation to an aircraft or vessel that arrives at a landing place or port in Australian territory on or after the commencement of this item.

Division 2—Infringement notices under Part 5 of the Regulatory Powers Act

523 Basic provisions for infringement notices under Part 5 of the Regulatory Powers Act

Provisions subject to an infringement notice

- (1) The provisions listed in the following table are subject to an infringement notice under Part 5 of the Regulatory Powers Act:

Provisions that are subject to an infringement notice	
Item	Provision
	523(1) (before table item 1)
	Insert:
	1A Subsection 38(5)
	1B Section 108T
	1C Section 108U
1	Subsection 124(2)
2	Subsection 125(4)
3	Subsection 126(2)
4	Subsection 127(3)

Division 4—Miscellaneous

635 Privilege against self-incrimination

Person not entitled to refuse to answer questions, provide information or produce documents under certain provisions of this Act

- (1) A person is not excused from answering a question, providing information or producing a document, under any of the following provisions, on the ground that the answer, the information or the production of the document might tend to incriminate the person or make the person liable to a penalty:

Paragraph 635(1)(a)

Omit “and 85”, substitute “, 85 and 108K”.

- (a) sections 44, 45, 69, 70 and 85 and Division 6 of Part 2 of Chapter 2 (human biosecurity);

193 Pre-arrival reporting

Before subsection 193(1)

Insert:

Initial report

- (1) The operator of an aircraft or vessel must give a report if:
- (a) it is intended that the aircraft or vessel enter, or the aircraft or vessel enters, Australian territory:

After subsection 193(1)

Insert:

Other reports

- (1A) The operator of the aircraft or vessel must give one or more other reports in relation to the aircraft or vessel in the circumstances prescribed by the regulations.

Note: The regulations may prescribe different circumstances for the giving of reports for different classes of aircraft or vessels (see subsection 33(3A) of the *Acts Interpretation Act 1901*)

22 Before subsection 193(2)

Insert:

Requirements for reports

23 Subsection 193(2)

Omit “The report”, substitute “A report under this section

(2) The report must:

- (a) include the information in relation to the aircraft or vessel that is prescribed by the regulations; and
- (b) be given in the manner, and to the person, prescribed by the regulations; and
- (a) the person is required to give a report under subsection (1); 193(4)(a)

After “subsection (1)”, insert “or (1A)”.and

(b) the person does not give the report in accordance with subsection (2).

Note: The physical elements of an offence against subsection (5) are set out in this subsection (see section 534).

Fault-based offence

(5) A person commits an offence if the person contravenes subsection (4).

Penalty: Imprisonment for 2 years or 120 penalty units, or both.

Civil penalty provision Subsection 193(5) (penalty)

Omit “120”, substitute “1,000”.

(6) A person is liable to a civil penalty if the person contravenes subsection (4).

Civil penalty: 120 penalty units.

193(6) (penalty)

Omit “120”, substitute “1,000”.

194 Pre-arrival reporting—requirement to give more information

Paragraph 194(1)(a)

Omit “section 193”, substitute “subsection 193(1) or (1A)”.

After subsection 194(1)

Insert:

(1A) The regulations may:

- (a) prescribe the circumstances in which the operator of an aircraft or vessel, that has given a report in relation to the aircraft or vessel under subsection 193(1) or (1A), must give a biosecurity officer further information in relation to that report; and
- (b) prescribe the kind of further information that the operator is required to give a biosecurity officer; and
- (c) prescribe when the operator must give that further information to a biosecurity officer.

Note 1: A person may commit an offence or contravene a civil penalty provision if the person provides false or misleading information or documents (see sections 137.1 and 137.2 of the *Criminal Code* and sections 532 and 533 of this Act).

Note 2: The obligation in this subsection applies whether or not the operator of the aircraft or vessel is in Australian territory when the operator of the aircraft or vessel is required to give the further information (see subsection (5)).

After subsection 194(2)

Insert:

(2A) A person contravenes this subsection if:

- (a) the person is required to give information under regulations made for the purposes of subsection (1A); and
- (b) the person does not give the information to a biosecurity officer as required by those regulations.

Note: The physical elements of an offence against subsection (3) are set out in this subsection (see section 534).

194 Pre-arrival reporting—requirement to give additional or corrected information

- (1) If:
- (a) the operator of an aircraft or vessel gives a report in relation to the aircraft or vessel under section 193; and
 - (b) the person in charge or the operator of the aircraft or vessel becomes aware that the information included in the report was incomplete or incorrect;
- the operator must as soon as practicable give a biosecurity officer the additional or corrected information.

Note 1: A person may commit an offence or contravene a civil penalty provision if the person provides false or misleading information or documents (see sections 137.1 and 137.2 of the *Criminal Code* and sections 532 and 533 of this Act).

Note 2: The obligation in this subsection applies whether or not the operator of the aircraft or vessel is in Australian territory when the person in charge or the operator of the aircraft or vessel becomes aware that the information included in a report given under section 193 was incomplete or incorrect (see subsection (5) of this section).

Failure to give information

- (2) A person contravenes this subsection if:
- (a) the person is required to give information to a biosecurity officer under subsection (1); and
 - (b) the person does not give the information to a biosecurity officer as required by that subsection.

Note: The physical elements of an offence against subsection (3) are set out in this subsection (see section 534).

Fault-based offence

- (3) A person commits an offence if the person contravenes subsection (2).

194(3) Omit “subsection (2)”, substitute “subsection (2) or (2A)”.

Penalty: Imprisonment for 2 years or 120 penalty units, or both. 194(3) (penalty)

Omit “120”, substitute “1,000”

Civil penalty provision

- (4) A person is liable to a civil penalty if the person contravenes subsection (2). 194(4)

Omit “subsection (2)”, substitute “subsection (2) or (2A)”. 194(4) (penalty)

Omit “120”, substitute “1,000”.

Civil penalty: 120 penalty units.

Application to persons within and outside Australian territory

(5) Subsections (2), (3) and (4) apply whether or not the person is in Australian territory when the person is required to give the information.

Subsection 195(1)

After “193(1)(a)”, insert “, or a report under subsection 193(1A) where paragraph 193(1)(a) applies,”.

Strengthening penalties

Division 3—Notice of goods to be unloaded in Australian territory penalty increases

Biosecurity Act 2015

1 Subsection 120(6) (penalty)

Omit “120”, substitute “300”.

2 Subsection 120(7) (penalty)

Omit “120”, substitute “300”.

3 Subsection 121(3) (penalty)

Omit “120”, substitute “300”.

4 Subsection 121(4) (penalty)

Omit “120”, substitute “300”.

5 Subsection 122(6) (penalty)

Omit “120”, substitute “300”.

6 Subsection 122(7) (penalty)

Omit “120”, substitute “300”.

7 Subsection 143(5) (penalty)

Omit “300”, substitute “1,000”.

8 Subsection 143(6) (penalty)

Omit “120”, substitute “300”.

9 Subsection 144(6) (penalty)

Omit “300”, substitute “1,000”.

10 Subsection 144(7) (penalty)

Omit “120”, substitute “300”.

11 Subsection 145(2) (penalty)

Omit “300”, substitute “1,000”.

12 Subsection 145(3) (penalty)

Omit “120”, substitute “300”.

13 Subsection 146(4) (penalty)

Omit “300”, substitute “1,000”.

14 Subsection 146(5) (penalty)

Omit “300”, substitute “1,000”.

15 Subsection 146(6) (penalty)

Omit “300”, substitute “1,000”.

16 Subsection 146(7) (penalty)

Omit “120”, substitute “300”.

17 Subsection 147(2) (penalty)

Omit “120”, substitute “300”.

18 Subsection 147(4) (penalty)

Omit “300”, substitute “1,000”.

19 Subsection 147(5) (penalty)

Omit “300”, substitute “1,000”.

20 Subsection 147(6) (penalty)

Omit “300”, substitute “1,000”.

21 Subsection 147(7) (penalty)

Omit “120”, substitute “300”.

22 Subsection 148(4) (penalty)

Omit “300”, substitute “1,000”.

23 Subsection 148(5) (penalty)

Omit “300”, substitute “1,000”.

24 Subsection 148(6) (penalty)

Omit “300”, substitute “1,000”.

25 Subsection 148(7) (penalty)

Omit “120”, substitute “300”.

26 Subsection 149(1) (penalty)

Omit “120”, substitute “300”.

27 Subsection 155(2) (penalty)

Omit “120”, substitute “1,000”.

28 Subsection 155(3) (penalty)

Omit “120”, substitute “300”.

29 Subsection 156(2) (penalty)

Omit “120”, substitute “1,000”.

30 Subsection 156(3) (penalty)

Omit “120”, substitute “300”.

Application provisions

- (1) Subsection 193(1A) of the *Biosecurity Act 2015*, as inserted by this Part, applies to an aircraft or vessel in relation to which a report is required to be given under subsection 193(1) of that Act on or after the commencement of this item.
- (2) The amendments of subsections 193(5) and (6) of the *Biosecurity Act 2015* made by this Part apply in relation to a person required to give a report under subsection 193(1) or (1A) of that Act on or after the commencement of this item.
- (3) The amendments of section 194 of the *Biosecurity Act 2015* made by this Part apply in relation to a report given under subsection 193(1) or (1A) of that Act on or after the commencement of this item.
- (4) The amendment of section 195 of the *Biosecurity Act 2015* made by this Part applies in relation to a report given under subsection 193(1A) of that Act on or after the commencement of this item.

Application provisions

- (1) The amendments of section 120 of the *Biosecurity Act 2015* made by this Schedule apply in relation to goods that are unloaded on or after the commencement of this item.
- (2) The amendments of section 121 of the *Biosecurity Act 2015* made by this Schedule apply in relation to a notice given under section 120 of that Act on or after the commencement of this item.
- (3) The amendments of section 122 of the *Biosecurity Act 2015* made by this Schedule apply in relation to a requirement made under subsection 122(2) or (3) of that Act on or after the commencement of this item.
- (4) The amendments of section 143 of the *Biosecurity Act 2015* made by this Schedule apply in relation to a direction given under subsection 143(3) of that Act on or after the commencement of this item.
- (5) The amendments of section 144 of the *Biosecurity Act 2015* made by this Schedule apply in relation to a direction given under subsection 144(3) or (4) of that Act on or after the commencement of this item.
- (6) The amendments of section 145 of the *Biosecurity Act 2015* made by this Schedule apply in relation to goods that are unloaded on or after the commencement of this item.

- (7) The amendments of section 146 of the *Biosecurity Act 2015* made by this Schedule apply in relation to a permission given under subsection 146(2) of that Act on or after the commencement of this item.
- (8) The amendments of section 147 of the *Biosecurity Act 2015* made by this Schedule apply in relation to an aircraft or vessel that arrives at a first point of entry for the aircraft or vessel on or after the commencement of this item.
- (9) The amendments of section 148 of the *Biosecurity Act 2015* made by this Schedule apply in relation to a permission given under subsection 148(2) of that Act on or after the commencement of this item.
- (10) The amendment of section 149 of the *Biosecurity Act 2015* made by this Schedule applies in relation to goods that are unloaded on or after the commencement of this item.
- (11) The amendments of section 155 of the *Biosecurity Act 2015* made by this Schedule apply in relation to goods that become subject to biosecurity control on or after the commencement of this item.
- (12) The amendments of section 156 of the *Biosecurity Act 2015* made by this Schedule apply in relation to goods that become subject to biosecurity control on or after the commencement of this item.

Section 5 (note 2)

Omit “179(3)”, substitute “179(1A)”.

After section 14

Insert:

14A Meaning of *biosecurity worker*

- (1) A *biosecurity worker* is:
 - (a) an APS employee in the Agriculture Department or Health Department; or
 - (b) a person who is an employee of an Agency (within the meaning of the *Public Service Act 1999*) and whose services are made available to the Agriculture Department or Health Department; or
 - (c) a person who is:
 - (i) engaged as a consultant or contractor to perform services for the Agriculture Department or Health Department; and
 - (ii) specified in a determination under subsection (2); or
 - (d) a person who is:
 - (i) engaged or employed by a person to whom paragraph (c) or this paragraph applies; and
 - (ii) performing services for the Agriculture Department or Health Department in connection with that engagement or employment; and
 - (iii) specified in a determination under subsection (3).
- (2) The Agriculture Secretary or Health Secretary may, by written determination, specify a person for the purposes of subparagraph (1)(c)(ii).
- (3) The Agriculture Secretary or Health Secretary may, by written determination, specify a person for the purposes of subparagraph (1)(d)(iii).
- (4) A determination under subsection (2) or (3) is not a legislative instrument.

Insert:

biosecurity worker has the meaning given by section 14A.

- (4) The Director of Biosecurity and the Director of Human Biosecurity must apply the ALOP for Australia in conducting a risk assessment for the purpose of deciding whether to make a determination under subsection (1) specifying particular goods or a particular class of goods.

173(4)

Repeal the subsection, substitute:

- (4) Before a determination under subsection (1) is made:
- (a) a risk assessment must be conducted by a biosecurity worker in relation to the making of that determination; and
 - (b) the Director of Biosecurity:
 - (i) must be satisfied that the ALOP for Australia was applied in the conduct of the risk assessment; and
 - (ii) must consider the risk assessment; and
 - (iii) may also consider any other matters that the Director considers relevant; and
 - (c) the Director of Human Biosecurity:
 - (i) must be satisfied that the ALOP for Australia was applied in the conduct of the risk assessment; and
 - (ii) must consider the risk assessment; and
 - (iii) may also consider any other matters that the Director considers relevant.

- (3) The Director of Biosecurity and the Director of Human Biosecurity must apply the ALOP for Australia in conducting a risk assessment for the purpose of deciding whether to make a determination under subsection (1) specifying a particular class of goods.

174(3)

Repeal the subsection, substitute:

- (3) Before a determination under subsection (1) is made:
- (a) a risk assessment must be conducted by a biosecurity worker in relation to the making of that determination; and
 - (b) the Director of Biosecurity:
 - (i) must be satisfied that the ALOP for Australia was applied in the conduct of the risk assessment; and
 - (ii) must consider the risk assessment; and
 - (iii) may also consider any other matters that the Director considers relevant; and
 - (c) the Director of Human Biosecurity:
 - (i) must be satisfied that the ALOP for Australia was applied in the conduct of the risk assessment; and
 - (ii) must consider the risk assessment; and
 - (iii) may also consider any other matters that the Director considers relevant.

- (4) The Director must apply the ALOP for Australia in conducting a risk assessment for the purpose of deciding whether to make a determination under subsection (1) specifying particular goods or a particular class of goods.

182(4)

Repeal the subsection, substitute:

- (4) Before a determination under subsection (1) is made:
- (a) a risk assessment must be conducted by a biosecurity worker in relation to the making of that determination; and
 - (b) the Director of Biosecurity must be satisfied that the ALOP for Australia was applied in the conduct of the risk assessment; and
 - (c) the Director of Biosecurity must consider the risk assessment; and
 - (d) the Director of Biosecurity may also consider any other matters that the Director considers relevant.

Part 2—Director of Biosecurity

541(4) (note)

Omit “The Director of Biosecurity must apply the ALOP for Australia”, substitute “The ALOP for Australia must be applied”.

Note: The Director of Biosecurity must apply the ALOP for Australia in conducting a BIRA in relation to particular goods (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 and, if so, whether this should be subject to conditions (see subsections 173(4), 174(3), 179(3) and 182(4)).

541(4) (note) Omit “179(3)”, substitute “179(1A)”.

Application provisions

- (1) The amendment of section 173 of the *Biosecurity Act 2015* made by this Schedule applies in relation to a determination made under subsection 173(1) of that Act on or after the commencement of this item.
- (2) The amendment of section 174 of the *Biosecurity Act 2015* made by this Schedule applies in relation to a determination made under subsection 174(1) of that Act on or after the commencement of this item.
- (3) The amendments of section 179 of the *Biosecurity Act 2015* made by this Schedule apply in relation to an application for a permit made on or after the commencement of this item.
- (4) The amendment of section 182 of the *Biosecurity Act 2015* made by this Schedule applies in relation to a determination made under subsection 182(1) of that Act on or after the commencement of this item.

3 Simplified outline of this Act

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

Section 3

After:

- (c) recovering costs under this Act; and

insert:

- (ca) arrangements and grants for dealing with risks posed by diseases or pests; and
- (d) abandoned or forfeited goods and conveyances; and
- (e) modification of this Act in relation to certain movements of persons, goods and conveyances.

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) Part 3A of Chapter 11 (arrangements and grants for dealing with risks posed by diseases or pests) or another part of this Act (see sections 9 and 310).

4 (note)

After “response)”, insert “, Part 3A of Chapter 11 (arrangements and grants for dealing with risks posed by diseases or pests)”.

Section 4 (note)

Omit “and 310”, substitute “, 310 and 614B”.

biosecurity risk means (except as provided by section 310 or 614B Section 9 (definition of *biosecurity risk*))

After “section 310”, insert “or 614B”.

Part 3A—Arrangements and grants for dealing with risks posed by diseases or pests

614A Simplified outline of this Part

The Agriculture Minister or the Health Minister may, on behalf of the Commonwealth, make, vary or administer an arrangement for the making of payments by the Commonwealth, or make, vary or administer a grant of financial assistance, for dealing with risks posed by diseases or pests.

614B Arrangements and grants for dealing with risks posed by diseases or pests

- (1) The Agriculture Minister or the Health Minister may, on behalf of the Commonwealth, make, vary or administer an arrangement for the making of payments by the Commonwealth, or make, vary or administer a grant of financial assistance, in relation to one or more of the following:
 - (a) activities or research relating to identifying, preventing, preparing for or managing biosecurity risks;
 - (b) activities in or outside Australian territory relating to dealing with the risk covered by subsection (2), including, but not limited to, improving the capacity of foreign countries to respond to or manage that risk;
 - (c) activities relating to communicating information in or outside Australian territory about the identification of, prevention of, preparation for or management of:
 - (i) biosecurity risks; or
 - (ii) the risk covered by subsection (2);
 - (d) activities relating to supporting or enhancing State or Territory or industry-led biosecurity incident response programs, or biosecurity incident recovery programs, dealing with biosecurity risks;
 - (e) activities relating to identifying or managing established pests or established diseases to stop the spread of such pests or diseases;
 - (f) activities relating to furthering the objects of this Act;
 - (g) a matter that is incidental or ancillary to an activity covered by paragraph (a), (b), (c), (d), (e) or (f).
- (2) The risk covered by this subsection is:

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

Reimbursement of costs or expenses

- (3) An arrangement under subsection (1) may provide for the Commonwealth to reimburse, or partly reimburse, costs or expenses.
- (4) A grant under subsection (1) may be made by way of the reimbursement, or partial reimbursement, of costs or expenses.
- (5) Subsections (3) and (4) do not limit subsection (1).

Definitions

- (6) In this section:
 - arrangement** includes a contract, agreement, deed or understanding.
 - biosecurity risk** has the same meaning as it has in Chapter 6.
 - make**, in relation to an arrangement, includes enter into.

614C Terms and conditions for grants

Grant of financial assistance to a State or Territory

- (1) For a grant of financial assistance under section 614B to a State or Territory, the terms and conditions on which that financial assistance is granted are to be set out in a written agreement between the Commonwealth and the State or Territory.
- (2) The Agriculture Minister or the Health Minister may, on behalf of the Commonwealth, enter into an agreement under subsection (1).
- (3) Any variation of the grant must be in accordance with the terms or conditions of the grant.

Grant of financial assistance to other persons

- (4) For a grant of financial assistance under section 614B to a person other than a State or Territory, this section does not, by implication, prevent the grant from being made subject to terms and conditions.

614D Additional operation of this Part

- (1) In addition to Part 3 of Chapter 1, this Part also has effect as provided by this section.

- (2) This Part also applies in relation to an arrangement or grant referred to in section 614B that is with respect to:
- (a) the granting of financial assistance to a State or Territory; or
 - (b) a Territory; or
 - (c) people to whom paragraph 51(xxvi) of the Constitution applies.

614E Relationship of this Part with other Acts

This Part does not, by implication, limit the operation of the *Financial Framework (Supplementary Powers) Act 1997*.

614F Executive power of the Commonwealth

This Part does not, by implication, limit the executive power of the Commonwealth.

614G Inclusion of information in annual reports

- (1) The Agriculture Secretary, when preparing the Agriculture Department's annual report under section 46 of the *Public Governance, Performance and Accountability Act 2013* for a period, must include the following information in that report:
- (a) the total of the amounts paid in that period under arrangements or grants referred to in section 614B of this Act that were made by the Agriculture Minister;
 - (b) the total number of such arrangements or grants that were made by the Agriculture Minister in that period.
- (2) The Health Secretary, when preparing the Health Department's annual report under section 46 of the *Public Governance, Performance and Accountability Act 2013* for a period, must include the following information in that report:
- (a) the total of the amounts paid in that period under arrangements or grants referred to in section 614B of this Act that were made by the Health Minister;
 - (b) the total number of such arrangements or grants that were made by the Health Minister in that period.

614H Delegation

- (1) The Health Minister may, by writing, delegate any or all of the Health Minister's powers under section 614B to:
- (a) the Health Secretary; or
 - (b) an SES employee, or acting SES employee, in the Health Department; or
 - (c) an SES employee, or acting SES employee, in a Department of State of the Commonwealth other than the Health Department.

Note: For delegation of powers by the Agriculture Minister, see section 643.

- (2) The Health Minister may, by writing, delegate the Health Minister's power under section 614C to:
- (a) the Health Secretary; or
 - (b) an SES employee, or acting SES employee, in the Health Department.

Note: For delegation of powers by the Agriculture Minister, see section 643.

- (3) In exercising any powers under a delegation under this section, the delegate must comply with any directions of the Health Minister.

643(1)

Insert:

- (1A) Without limiting subsection (1), the Agriculture Minister may, by writing, delegate any or all of the Agriculture Minister's powers under section 614B to an SES employee, or acting SES employee, in a Department of State of the Commonwealth other than the Agriculture Department.