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The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

Biosecurity Amendment (Enhanced Risk Management) Bill 2021

No. , 2021

(Agriculture, Water and the Environment)

**A Bill for an Act to amend the *Biosecurity Act 2015*,
and for related purposes**

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1 **A Bill for an Act to amend the *Biosecurity Act 2015*,**
2 **and for related purposes**

3 The Parliament of Australia enacts:

4 **1 Short title**

5 This Act is the *Biosecurity Amendment (Enhanced Risk*
6 *Management) Act 2021*.

7 **2 Commencement**

8 (1) Each provision of this Act specified in column 1 of the table
9 commences, or is taken to have commenced, in accordance with
10 column 2 of the table. Any other statement in column 2 has effect
11 according to its terms.
12

1 **Schedule 1—Pratique and human health**
2 **measures**

3 **Part 1—Pratique**

4 ***Biosecurity Act 2015***

5 **1 Subsection 48(1)**

6 After “An operator of an incoming aircraft or vessel”, insert “, or the
7 person in charge of an incoming aircraft or vessel,”.

8 **2 Subsection 48(1) (penalty)**

9 Repeal the penalty, substitute:

10 Civil penalty:

11 (a) for an operator of the aircraft or vessel—1,000 penalty units;

12 or

13 (b) for the person in charge of the aircraft or vessel—300 penalty
14 units.

15 **3 Application provision**

16 The amendments of section 48 of the *Biosecurity Act 2015* made by this
17 Part apply in relation to an incoming aircraft or vessel that arrives at a
18 landing place or port in Australian territory on or after the
19 commencement of this item.

Part 2—Human biosecurity group directions

Biosecurity Act 2015

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.”.

5 Section 9

Insert:

human biosecurity group direction means a direction made under section 108B.

6 Section 9 (at the end of the definition of *prescribed contact information*)

Add:

; and (d) in relation to subsection 108K(1)—the contact information prescribed by the regulations for the purposes of that subsection.

7 Subsection 34(1)

After “an individual”, insert “or a class of individuals”.

8 Section 35

After “an individual”, insert “or a class of individuals”.

9 At the end of section 35

Add “or an individual in that class”.

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

11 At the end of paragraph 38(4)(c)

Add “under this section”.

12 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.

13 At the end of subsection 40(1)

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

14 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

15 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:

- 1 (i) a listed human disease; or
2 (ii) one or more other individuals who have one or more
3 signs or symptoms of a listed human disease.

4 *Inclusion of biosecurity measures in direction*

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

15 **108C Contents of human biosecurity group direction**

- 16 (1) A human biosecurity group direction must specify the following:
17 (a) the ground in subsection 108B(4) under which the direction
18 is made;
19 (b) the listed human disease in relation to which the direction is
20 made;
21 (c) any signs or symptoms of the listed human disease;
22 (d) a unique identifier for the direction;
23 (e) each biosecurity measure (specified in Division 3) with
24 which each individual included in the class of individuals
25 specified in the direction must comply, and an explanation
26 of:
27 (i) why each biosecurity measure is required; and
28 (ii) in relation to a biosecurity measure included under
29 section 108N (examination) or 108P (body samples)—
30 how the biosecurity measure is to be undertaken;
31 (f) the period during which the direction is in force, which must
32 not be more than 8 hours;
33 (g) the effect of section 108T (civil penalty for failing to comply
34 with the direction);

- 1 (h) details of a chief human biosecurity officer who can be
2 contacted for information and support in relation to the
3 direction;
4 (i) any other information that the officer making the direction
5 considers appropriate;
6 (j) any other information required by the regulations.
7 (2) If a human biosecurity group direction (the **first direction**) ceases
8 to be in force, paragraph (1)(f) does not prevent another human
9 biosecurity group direction from being made in relation to a class
10 of individuals covered by subsection 108B(2) (whether or not that
11 class is the same class of individuals specified in the first
12 direction).

13 **108D Form of human biosecurity group direction**

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

17 **108E Notification of human biosecurity group direction**

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

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

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

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

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

4 **108F Varying a human biosecurity group direction**

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

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

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

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

14 *Direction may be extended by up to 4 hours*

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

18 *Ground for varying human biosecurity group direction*

- 19 (4) A chief human biosecurity officer or a human biosecurity officer
20 may vary a human biosecurity group direction only if the officer is
21 satisfied that:

- 22 (a) the variation contributes to reducing the risk of:
23 (i) contagion of a listed human disease; or
24 (ii) a listed human disease entering, or emerging,
25 establishing itself or spreading in, Australian territory or
26 a part of Australian territory; or
27 (b) the variation removes or varies a provision that no longer
28 contributes to reducing such a risk; or
29 (c) the variation is of a minor technical nature.

30 *When variation takes effect*

- 31 (5) A variation must specify the time at which the variation takes
32 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

- 1 or spreading in, Australian territory or a part of Australian
2 territory; or
3 (c) in all the circumstances it is appropriate to revoke the
4 direction.

5 *When revocation takes effect*

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

8 *Notification of revocation*

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

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

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

24 **108H Notifying Director of Human Biosecurity of making, varying**
25 **or revoking of human biosecurity group direction**

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

- 29 (a) makes a human biosecurity group direction; or
30 (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).

- 1 (4) If an exemption is given in writing, the exemption is not a
2 legislative instrument.

3 **108N Undergoing an examination**

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

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

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

13 *Consent*

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

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

27 **108P Requiring body samples for diagnosis**

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

- 34 (a) the listed human disease specified in the direction; and

1 (b) any other listed human disease.

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

5 *Consent*

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

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

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

15 *Requirements for body samples*

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

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

22 *Giving samples to the World Health Organization*

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

27 **108Q No loading or unloading of items from the aircraft or vessel**

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

1 *Permissions*

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

7 **108R Appropriate medical or other standards to be applied**

8 A biosecurity measure set out in section 108N (examination) or
9 108P (body samples) must be carried out in a manner consistent
10 with either or both of the following (as the case requires):
11 (a) appropriate medical standards;
12 (b) appropriate other relevant professional standards.

13 **108S No use of force to require compliance with biosecurity**
14 **measures**

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

18 **Division 4—Civil penalties**

19 **108T Civil penalty for failing to comply with a human biosecurity**
20 **group direction**

21 An individual is liable to a civil penalty if:
22 (a) a human biosecurity group direction is in force; and
23 (b) the individual is included in the class of individuals specified
24 in the direction; and
25 (c) there has been notification of the direction in accordance with
26 section 108E and, if the direction has been varied, there has
27 been notification of the variation in accordance with section
28 108F; and
29 (d) the individual fails to comply with a biosecurity measure
30 included in the human biosecurity group direction that
31 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;

(c) give the individual a reasonable opportunity to do so.

17 Subsection 523(1) (before table item 1)

Insert:

1A	Subsection 38(5)
1B	Section 108T
1C	Section 108U

18 Paragraph 635(1)(a)

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

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 *Biosecurity 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.

1 **Part 3—Pre-arrival reporting**

2 ***Biosecurity Act 2015***

3 **20 Before subsection 193(1)**

4 Insert:

5 *Initial report*

6 **21 After subsection 193(1)**

7 Insert:

8 *Other reports*

9 (1A) The operator of the aircraft or vessel must give one or more other
10 reports in relation to the aircraft or vessel in the circumstances
11 prescribed by the regulations.

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

15 **22 Before subsection 193(2)**

16 Insert:

17 *Requirements for reports*

18 **23 Subsection 193(2)**

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

20 **24 Paragraph 193(4)(a)**

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

22 **25 Subsection 193(5) (penalty)**

23 Omit “120”, substitute “1,000”.

24 **26 Subsection 193(6) (penalty)**

25 Omit “120”, substitute “1,000”.

27 Section 194 (heading)

Repeal the heading, substitute:

194 Pre-arrival reporting—requirement to give more information

28 Paragraph 194(1)(a)

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

29 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)).

30 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.

1 **Schedule 2—Strengthening penalties**
2

3 *Biosecurity Act 2015*

4 **1 Subsection 120(6) (penalty)**

5 Omit “120”, substitute “300”.

6 **2 Subsection 120(7) (penalty)**

7 Omit “120”, substitute “300”.

8 **3 Subsection 121(3) (penalty)**

9 Omit “120”, substitute “300”.

10 **4 Subsection 121(4) (penalty)**

11 Omit “120”, substitute “300”.

12 **5 Subsection 122(6) (penalty)**

13 Omit “120”, substitute “300”.

14 **6 Subsection 122(7) (penalty)**

15 Omit “120”, substitute “300”.

16 **7 Subsection 143(5) (penalty)**

17 Omit “300”, substitute “1,000”.

18 **8 Subsection 143(6) (penalty)**

19 Omit “120”, substitute “300”.

20 **9 Subsection 144(6) (penalty)**

21 Omit “300”, substitute “1,000”.

22 **10 Subsection 144(7) (penalty)**

23 Omit “120”, substitute “300”.

24 **11 Subsection 145(2) (penalty)**

25 Omit “300”, substitute “1,000”.

1 **12 Subsection 145(3) (penalty)**

2 Omit “120”, substitute “300”.

3 **13 Subsection 146(4) (penalty)**

4 Omit “300”, substitute “1,000”.

5 **14 Subsection 146(5) (penalty)**

6 Omit “300”, substitute “1,000”.

7 **15 Subsection 146(6) (penalty)**

8 Omit “300”, substitute “1,000”.

9 **16 Subsection 146(7) (penalty)**

10 Omit “120”, substitute “300”.

11 **17 Subsection 147(2) (penalty)**

12 Omit “120”, substitute “300”.

13 **18 Subsection 147(4) (penalty)**

14 Omit “300”, substitute “1,000”.

15 **19 Subsection 147(5) (penalty)**

16 Omit “300”, substitute “1,000”.

17 **20 Subsection 147(6) (penalty)**

18 Omit “300”, substitute “1,000”.

19 **21 Subsection 147(7) (penalty)**

20 Omit “120”, substitute “300”.

21 **22 Subsection 148(4) (penalty)**

22 Omit “300”, substitute “1,000”.

23 **23 Subsection 148(5) (penalty)**

24 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”.

31 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.

- 1 (5) The amendments of section 144 of the *Biosecurity Act 2015* made by
2 this Schedule apply in relation to a direction given under
3 subsection 144(3) or (4) of that Act on or after the commencement of
4 this item.
- 5 (6) The amendments of section 145 of the *Biosecurity Act 2015* made by
6 this Schedule apply in relation to goods that are unloaded on or after the
7 commencement of this item.
- 8 (7) The amendments of section 146 of the *Biosecurity Act 2015* made by
9 this Schedule apply in relation to a permission given under
10 subsection 146(2) of that Act on or after the commencement of this
11 item.
- 12 (8) The amendments of section 147 of the *Biosecurity Act 2015* made by
13 this Schedule apply in relation to an aircraft or vessel that arrives at a
14 first point of entry for the aircraft or vessel on or after the
15 commencement of this item.
- 16 (9) The amendments of section 148 of the *Biosecurity Act 2015* made by
17 this Schedule apply in relation to a permission given under
18 subsection 148(2) of that Act on or after the commencement of this
19 item.
- 20 (10) The amendment of section 149 of the *Biosecurity Act 2015* made by this
21 Schedule applies in relation to goods that are unloaded on or after the
22 commencement of this item.
- 23 (11) The amendments of section 155 of the *Biosecurity Act 2015* made by
24 this Schedule apply in relation to goods that become subject to
25 biosecurity control on or after the commencement of this item.
- 26 (12) The amendments of section 156 of the *Biosecurity Act 2015* made by
27 this Schedule apply in relation to goods that become subject to
28 biosecurity control on or after the commencement of this item.

Schedule 3—Risk assessment

Biosecurity Act 2015

1 Section 5 (note 2)

Omit “179(3)”, substitute “179(1A)”.

2 Section 9

Insert:

biosecurity worker has the meaning given by section 14A.

3 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).

- 1 (2) The Agriculture Secretary or Health Secretary may, by written
2 determination, specify a person for the purposes of
3 subparagraph (1)(c)(ii).
- 4 (3) The Agriculture Secretary or Health Secretary may, by written
5 determination, specify a person for the purposes of
6 subparagraph (1)(d)(iii).
- 7 (4) A determination under subsection (2) or (3) is not a legislative
8 instrument.

9 **4 Subsection 173(4)**

10 Repeal the subsection, substitute:

- 11 (4) Before a determination under subsection (1) is made:
- 12 (a) a risk assessment must be conducted by a biosecurity worker
13 in relation to the making of that determination; and
- 14 (b) the Director of Biosecurity:
- 15 (i) must be satisfied that the ALOP for Australia was
16 applied in the conduct of the risk assessment; and
- 17 (ii) must consider the risk assessment; and
- 18 (iii) may also consider any other matters that the Director
19 considers relevant; and
- 20 (c) the Director of Human Biosecurity:
- 21 (i) must be satisfied that the ALOP for Australia was
22 applied in the conduct of the risk assessment; and
- 23 (ii) must consider the risk assessment; and
- 24 (iii) may also consider any other matters that the Director
25 considers relevant.

26 **5 Subsection 174(3)**

27 Repeal the subsection, substitute:

- 28 (3) Before a determination under subsection (1) is made:
- 29 (a) a risk assessment must be conducted by a biosecurity worker
30 in relation to the making of that determination; and
- 31 (b) the Director of Biosecurity:
- 32 (i) must be satisfied that the ALOP for Australia was
33 applied in the conduct of the risk assessment; and

-
- 1 (ii) must consider the risk assessment; and
2 (iii) may also consider any other matters that the Director
3 considers relevant; and
4 (c) the Director of Human Biosecurity:
5 (i) must be satisfied that the ALOP for Australia was
6 applied in the conduct of the risk assessment; and
7 (ii) must consider the risk assessment; and
8 (iii) may also consider any other matters that the Director
9 considers relevant.

10 **6 After subsection 179(1)**

11 Insert:

- 12 (1A) Before granting the permit in relation to the goods:
13 (a) a risk assessment must be conducted in relation to the goods
14 by a biosecurity worker; and
15 (b) the Director of Biosecurity must be satisfied that the ALOP
16 for Australia was applied in the conduct of the risk
17 assessment.

18 **7 Before paragraph 179(2)(a)**

19 Insert:

- 20 (aa) the risk assessment that was conducted in relation to the
21 goods; and

22 **8 Subsection 179(3)**

23 Repeal the subsection.

24 **9 Subsection 182(4)**

25 Repeal the subsection, substitute:

- 26 (4) Before a determination under subsection (1) is made:
27 (a) a risk assessment must be conducted by a biosecurity worker
28 in relation to the making of that determination; and
29 (b) the Director of Biosecurity must be satisfied that the ALOP
30 for Australia was applied in the conduct of the risk
31 assessment; and

1 (c) the Director of Biosecurity must consider the risk
2 assessment; and

3 (d) the Director of Biosecurity may also consider any other
4 matters that the Director considers relevant.

5 **10 Subsection 541(4) (note)**

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

8 **11 Subsection 541(4) (note)**

9 Omit “179(3)”, substitute “179(1A)”.

10 **12 Application provisions**

11 (1) The amendment of section 173 of the *Biosecurity Act 2015* made by this
12 Schedule applies in relation to a determination made under
13 subsection 173(1) of that Act on or after the commencement of this
14 item.

15 (2) The amendment of section 174 of the *Biosecurity Act 2015* made by this
16 Schedule applies in relation to a determination made under
17 subsection 174(1) of that Act on or after the commencement of this
18 item.

19 (3) The amendments of section 179 of the *Biosecurity Act 2015* made by
20 this Schedule apply in relation to an application for a permit made on or
21 after the commencement of this item.

22 (4) The amendment of section 182 of the *Biosecurity Act 2015* made by this
23 Schedule applies in relation to a determination made under
24 subsection 182(1) of that Act on or after the commencement of this
25 item.

**Schedule 4—Arrangements and grants for
dealing with risks posed by diseases
or pests**

Biosecurity Act 2015

1 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

2 Section 4 (note)

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

3 Section 4 (note)

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

4 Section 9 (definition of *biosecurity risk*)

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

**5 Section 9 (at the end of the note to the definition of
biosecurity risk)**

Add “and section 614B applies this modified meaning in relation to
Part 3A of Chapter 11 (arrangements and grants for dealing with risks
posed by diseases or pests)”.

6 After Part 3 of Chapter 11

Insert:

**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;

- 1 (f) activities relating to furthering the objects of this Act;
- 2 (g) a matter that is incidental or ancillary to an activity covered
- 3 by paragraph (a), (b), (c), (d), (e) or (f).
- 4 (2) The risk covered by this subsection is:
- 5 (a) the likelihood of a disease or pest:
- 6 (i) entering a foreign country or a part of a foreign country;
- 7 or
- 8 (ii) emerging, establishing itself or spreading in a foreign
- 9 country or a part of a foreign country; and
- 10 (b) the potential for any of the following:
- 11 (i) the disease or pest to cause harm to human, animal or
- 12 plant health in that foreign country;
- 13 (ii) the disease or pest to cause harm to the environment in
- 14 that foreign country;
- 15 (iii) economic consequences in that foreign country
- 16 associated with the entry, emergence, establishment or
- 17 spread of the disease or pest as mentioned in
- 18 paragraph (a).

19 *Reimbursement of costs or expenses*

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

26 *Definitions*

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

1 **614C Terms and conditions for grants**

2 *Grant of financial assistance to a State or Territory*

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

11 *Grant of financial assistance to other persons*

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

16 **614D Additional operation of this Part**

- 17 (1) In addition to Part 3 of Chapter 1, this Part also has effect as
18 provided by this section.
- 19 (2) This Part also applies in relation to an arrangement or grant
20 referred to in section 614B that is with respect to:
21 (a) the granting of financial assistance to a State or Territory; or
22 (b) a Territory; or
23 (c) people to whom paragraph 51(xxvi) of the Constitution
24 applies.

25 **614E Relationship of this Part with other Acts**

26 This Part does not, by implication, limit the operation of the
27 *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.

- 1 (2) The Health Minister may, by writing, delegate the Health
2 Minister's power under section 614C to:
3 (a) the Health Secretary; or
4 (b) an SES employee, or acting SES employee, in the Health
5 Department.
6 Note: For delegation of powers by the Agriculture Minister, see section 643.
7 (3) In exercising any powers under a delegation under this section, the
8 delegate must comply with any directions of the Health Minister.

9 **7 After subsection 643(1)**

10 Insert:

- 11 (1A) Without limiting subsection (1), the Agriculture Minister may, by
12 writing, delegate any or all of the Agriculture Minister's powers
13 under section 614B to an SES employee, or acting SES employee,
14 in a Department of State of the Commonwealth other than the
15 Agriculture Department.