

APPENDIX E

Summary of principal areas of legislation available to support pandemic actions

State and territory government legislative powers

States and territories have legislative powers that enable them to implement biosecurity arrangements within their borders and that complement Australian Government biosecurity arrangements. They also have a broad range of public health and emergency response powers available under public and emergency legislation for responding to public health emergencies.

Aged Care Act 1997

The Aged Care Act 1997 (the Act) and associated Aged Care Principles set out the legislative framework for the funding and regulation of aged care, noting that services may also be provided through contractual arrangements outside of the Act.

For residential care facilities, under the Aged Care Quality Standards (Quality Standards), aged care providers must have governance systems in place to assess, monitor and drive improvement in the quality and safety of the care and services they provide – including making sure consumers receive high quality and safe care and services.

Aged Care Quality and Safety Commission Act 2018 and Rules

As the independent national regulator of Australian Government-funded aged care services, the Commission's role is to protect and enhance the safety, health, well-being and quality of life of older Australians receiving aged care.

When the Commission determines that a provider of a service is non-compliant with their responsibilities under the Aged Care Act 1997, the Aged Care Principles or its Commonwealth funding agreement, or where there is evidence that the care and services provided in a service do not meet the Quality Standards, the Commission will notify the provider of the non-compliance and any regulatory actions taken in response to the non-compliance.

The Commission's response to noncompliance is proportionate to the level of assessed risk and the potential consequences of that risk for consumers. The Commission may take administrative actions or enforceable regulatory actions in managing non-compliance.

The Biosecurity Act 2015

The Biosecurity Act 2015 authorises activities used to prevent the introduction and spread of target diseases into Australia. COVID-19 was made a Listed Human Disease under the Act early on in the pandemic to allow for the use of powers under the Act. The Governor-General also has the power to declare a human biosecurity emergency, which authorises the Health Minister to implement a broad range of actions in response. Australia's Chief Medical Officer (CMO) is the Director Human Biosecurity under the Act.

The National Health Security Act 2007

The National Health Security Act 2007 (NHS Act) authorises the exchange of public health surveillance information (including personal information) between the Australian Government, states and territories and the World Health Organization (WHO). The National Health Security Agreement supporting the NHS Act formalises decision-making and coordinated response arrangements that have been refined in recent years to prepare for health emergencies.

Therapeutic Goods Act 1989

The Therapeutic Goods Act 1989 establishes a framework for ensuring the timely availability of therapeutic goods (i.e. medicines, medical devices and biological products) that are of acceptable quality, safety and efficacy/performance. There are provisions within the legislation that operate at an individual patient level and at a program level (such as the maintenance of a National Medical Stockpile) to allow for the importation and supply of products that have not been approved for use in Australia.

Work Health and Safety Act 2011

The Work Health and Safety (WHS) Act provides a framework to protect the health, safety and welfare of all workers at work and of other people who might be affected by the work. The WHS Act aims to:

- Protect the health and safety of workers and other people by eliminating or minimising risks arising from work or workplaces
- Ensure fair and effective representation, consultation and cooperation to address and resolve health and safety issues in the workplace
- Encourage unions and employer organisations to take a constructive role in improving work health and safety practices
- Assisting businesses and workers to achieve a healthier and safer working environment
- Promote information, education and training on work health and safety
- Provide effective compliance and enforcement measures, and
- Deliver continuous improvement and progressively higher standards of work health and safety.