

EXPLANATORY MEMORANDUM

Minute No. 11 of 2020 – Minister for Health

Subject - *Biosecurity Act 2015*

Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) Declaration 2020

Section 475 of the *Biosecurity Act 2015* (the Act) provides that the Governor-General may declare that a human biosecurity emergency exists if the Health Minister is satisfied that a listed human disease is posing a severe and immediate threat, or is causing harm, to human health on a nationally significant scale, and the declaration is necessary to prevent or control the entry, emergence, establishment or spread of the listed human disease in Australian territory.

The purpose of the proposed *Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) Declaration 2020* (the Declaration) is to declare that a human biosecurity emergency exists.

On 5 January 2020, the World Health Organization (WHO) notified Member States under the *International Health Regulations (2005)* (IHR) of an outbreak of pneumonia of unknown cause in Wuhan city, China. The pathogen is a novel (new) coronavirus. On 21 January 2020 ‘Human coronavirus with pandemic potential’ became a ‘listed human disease’ under the Act via legislative instrument made by the Director of Human Biosecurity. On 30 January 2020, the outbreak was declared by the WHO International Regulations Emergency Committee to constitute a Public Health Emergency of International Concern. On 11 February 2020, WHO announced that the International Committee on Taxonomy of Viruses named the pathogen virus ‘severe acute respiratory syndrome coronavirus (SARS-CoV-2)’. It is closely related genetically to the virus that caused the 2003 outbreak of Severe Acute Respiratory Syndrome (SARS). The international name given by WHO to the disease caused by SARS-CoV-2 is Coronavirus disease 2019 (COVID-19).

COVID-19 has entered Australia. It represents a severe and immediate threat to human health in Australia as it has the ability to cause high levels of morbidity and mortality and to disrupt Australian community socially and economically.

On 17 February 2020 the Australian Health Protection Principal Committee (AHPPC) endorsed the Australian Health Sector Emergency Response Plan (Health Sector Emergency Plan). On 27 February 2020, the Prime Minister of Australia announced the Australian Government endorsed and activated the Health Sector Emergency Plan. The Prime Minister noted the rate of transmission of the virus outside mainland China; and the indications that the world will soon enter a pandemic phase of the listed human disease. On 11 March 2020 WHO declared the outbreak of COVID-19 a pandemic.

On advice from the Director of Human Biosecurity (who is the Commonwealth Chief Medical Officer), the Health Minister is satisfied:

- COVID-19 is posing a severe and immediate threat to human health on a nationally significant scale;
- a human biosecurity emergency declaration is necessary to prevent or control the:
 - entry of COVID-19 into Australian territory; and

- emergence, establishment or spread of COVID-19 in Australian territory.

The Health Minister recommends that 3 months is a suitable period for which the proposed Declaration should remain in force.

The nature of the human biosecurity emergency and the conditions that gave rise to it are that COVID-19 is an infectious disease that has entered Australian territory and is fatal in some cases. There is no vaccine against, or antiviral treatment, for COVID-19 immediately before the commencement of this Declaration. COVID-19 is posing a severe and immediate threat on a nationally significant scale.

The proposed Declaration commences immediately after it is registered on the Federal Register of Legislation, and ends at the end of 3 months beginning on the day the Declaration is registered. In accordance with section 476 of the Act, the Governor-General, on advice from the Health Minister, may, if necessary, vary the proposed Declaration, to extend the human biosecurity emergency period, for a maximum of 3 months each variation.

During a human biosecurity emergency period, the Health Minister may, in accordance with sections 477 and 478 of the Act, determine emergency requirements, or give directions, that he is satisfied are necessary to prevent or control the entry, emergence, establishment or spread of the declaration listed human disease in Australian territory. The requirements or directions may also be made to prevent or control the spread of the declaration listed human disease to another country, or to give effect to a recommendation to the Health Minister by WHO under Part III of the International Health Regulations. A person who fails to comply with a requirement or direction may commit a criminal offence (imprisonment for maximum 5 years, or 300 penalty units).

The Health Minister consulted, and the Declaration is supported by, the Director of Human Biosecurity (who is also the Commonwealth Chief Medical Officer), the Secretary of the Department of Home Affairs, and relevant Ministers. The Health Minister also informed each State, the Northern Territory and the Australian Capital Territory, and the Director of Biosecurity (who is the Secretary of the Department of Agriculture, Water and the Environment).

Details of the proposed Declaration are set out in the Attachment.

The proposed Declaration is a legislative instrument for the purposes of the *Legislation Act 2003*.

The Minute recommends that the proposed Declaration be made in the form proposed.

In accordance with section 475 of the *Biosecurity Act 2015*, I am satisfied:

- human coronavirus with pandemic potential is posing a severe and immediate threat to human health on a nationally significant scale; and
- a human biosecurity emergency declaration is necessary to prevent or control the entry of the listed human disease into Australian territory, and, the emergence, establishment or spread of the listed human disease in Australian territory.

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Minister for Health

Authority: Section 475 of the
Biosecurity Act 2015