

Tuesday, 3 March 2020

Law Council of Australia President, Pauline Wright, statement regarding biosecurity control orders

We absolutely support action by the government to keep Australia safe and stop the spread of potentially dangerous infectious diseases.

However, powers under the *Biosecurity Act 2015* (Cth) are extraordinary and must be approached with the utmost caution and should only be used as a last resort.

The exceptional powers under the Act do not have the types of safeguards and independent oversight protections afforded to our law enforcement and security agencies' exercise of coercive powers.

The determination of a particular disease as a Listed Human Disease (LHD) can have significant repercussions under the Bill, particularly in relation to control orders.

While control orders in cases of infectious disease may be justified, there is no requirement for a person to actually be infected or for the officer to even reasonably believe or suspect that the person is infected, or may be infected, with a LHD, before a control order can be made.

Control orders can potentially have a significant impact upon a person's liberty as they can, for example, require isolation or restricted movement measures to be in place. While the use of such a power may be necessary to limit the spread of potentially dangerous infectious diseases, the threshold for determining a LHD and then for imposing a control order needs to be carefully considered to ensure it achieves this purpose based on reasonable grounds.

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