European Parliament

Australia's restrictions on movement in response to the coronavirus pandemic

The Australian federal government, and state and territory governments, are working together to provide an effective national response to the coronavirus pandemic. The federal government's response, in terms of emergency measures designed to limit the spread of the virus, includes travel restrictions and efforts to ensure that travellers self-isolate on arrival in Australia. State and territory governments, for their part, have imposed travel restrictions between and within their jurisdictions, and imposed restrictions on social interaction, among other measures.

Introduction

Australia is a federal state with three levels of government: federal, state and territory, and local. Under this federal system of government, responsibility for the health system is shared between the three tiers. Health emergency management is primarily the responsibility of the state and territory governments; the federal government provides for physical and financial assistance when requested.

During the coronavirus pandemic, state and territory governments have been working together with the federal government. They share information, and ensure that the emergency response is consistent and integrated at national level. The Australian Health Protection Principal Committee (AHPPC), composed of the chief medical officer, the chief health officers for each of the states and territories, and representatives of key departments, is responsible for coordinating the health response at national level. Government activities are guided by the Australian health sector emergency response plan for novel coronavirus (Covid-19), activated on 27 February 2020. In addition, a national cabinet has been set up, with the participation of the prime minister and heads of state and territory governments, to develop a comprehensive response at all levels of government.

The legal framework supporting the response to the Covid-19 outbreak is provided by Commonwealth (federal) biosecurity legislation, and also state and territory response laws on public health and emergency management. Commonwealth legislation includes the 2015 Biosecurity Act, the 2007 National Health Security Act and the 1989 Therapeutic Goods Act.

Federal government powers to implement border control and isolation measures

The minister for health can recommend that the governor-general declare an emergency if a listed human disease represents a severe and immediate threat or harm to human health on a national scale. The 'human coronavirus with pandemic potential' became a 'Listed Human Disease' under the 2015 Biosecurity Act on 21 January 2020. In response to the novel coronavirus outbreak, on 18 March 2020 the Governor-General of Australia, on the recommendation of the Australian government, declared a human biosecurity emergency under Section 475 of the Biosecurity Act 2015. The human biosecurity emergency period (the period during which the declaration is effective) will last for three months, but may be extended.

This declaration gives the minister for health emergency powers to issue legally enforceable directions and requirements to combat the pandemic. Emergency powers may be used, for instance, to lay down requirements on the basis of which the movement of persons, goods and conveyances may be regulated or restricted. These emergency powers can override any provision of any other Australian law, although subsection 478(5) of the 2015 Biosecurity Act limits interference with state and regional bodies and officials. The first time that emergency powers were used was on 18 March, when the entry of international cruise ships into Australian ports was forbidden for 30 days. The next two determinations (legislative instruments) banned Australians from travelling overseas, and restricted travel to certain remote communities.

The 2015 Biosecurity Act also provides for other general powers to respond to the coronavirus outbreak and to restrict the movement of people, such as declaring a human health response zone to determine

EN

entry and exit requirements for individuals in that zone, and issuing human biosecurity control orders for individuals. Control orders may, among other things, require people who have been exposed to the disease to self-isolate: anyone failing to comply with that order may be detained or fined.

Examples of human health response zones determined by the chief medical officer include those set up for temporary quarantine of Australians repatriated from Wuhan city, China and the *Diamond Princess* cruise ship. One such zone is still operational in Sydney, and has been designated for inbound travellers to Australia. The declaration of a human health response zone by the chief medical officer can provide support for quarantine and isolation measures, while management of the mandatory quarantine arrangements falls, for the most part, under state and territory public health legislation. Similarly, legal enforcement of self-isolation has generally been a matter for the states and territories under their own public health legislation.

Australian border arrangements

After the first Covid-19 case was confirmed on 25 January 2020 and as the rate of infections increased, the Australian government progressively tightened travel conditions.

- As of 25 March 2020, Australian citizens and permanent residents are not allowed to travel abroad. However, a travel exemption may be granted in certain cases, for instance for aid assistance or compassionate reasons.
- Since 20 March 2020, international arrivals in Australia have been limited to Australian nationals, permanent residents and their direct relatives, and also New Zealanders living in Australia. Exemptions may apply to foreign nationals. Since 28 March 2020, anyone arriving in Australia has had to move into state- or territory-designated quarantine for 14 days, with a few exceptions.
- As for transit arrangements, with the exception of certain countries' citizens, all foreign nationals need an exemption to be allowed to transit through Australia.

Restriction of movement within and across state and territory borders

Beyond their powers to respond to emergencies, states and territories also have legislative powers to implement biosecurity arrangements within their respective jurisdictions that complement the federal government's measures in this regard. In the case of New South Wales, which has not declared a state of emergency, the general powers under its Public Health Act 2010 enable the state authorities to deal with public health risks and their consequences. Other states and territories, having declared emergencies, have been able to implement various specific powers and issue directions to restrict movement and public gatherings.

Following the federal government's recommendations to avoid non-essential domestic travel and to stay at home, states and territories have imposed their own restrictions, a few examples of which are given here. In Western Australia, for instance, the border has been closed since 5 April 2020. Anyone not complying with the rules may be imprisoned or fined. Some exemptions are in place, however, such as for people travelling on compassionate grounds or for emergency service workers. Since 1 April 2020, residents have not been allowed to leave their designated regions within the state (exemptions apply).

In Queensland, since 3 April 2020, only residents, residents of border communities in states undertaking essential activities and exempt persons in possession of an entry pass have been allowed to enter the state. Since 11 April 2020, residents or residents of neighbouring border communities who have been in a declared Covid-19 hotspot in Australia in the previous 14 days, must enter self-quarantine (with some exceptions). Queensland has also introduced penalties for anyone failing to comply.

South Australia, Tasmania and the Northern Territory have imposed 14-day self-isolation on non-essential travellers entering the state. New South Wales and Victoria have not introduced restrictions on access to their territory; however, in Victoria, police officers may, for instance impose fines on people not complying with public health guidelines on self-isolation, and in New South Wales breaches of public health orders imply penalties, imprisonment or both.

As of 27 April 2020, Australia has recorded a total of 6 720 cases of Covid-19. A total of 5 586 persons have recovered from Covid-19, and 83 deaths have been reported. More than 517 000 tests have been completed nationally.