

EXPOSURE DRAFT



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Data Availability and Transparency Regulations 2020

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 2020

David Hurley
Governor-General

By His Excellency's Command

Stuart Robert [**DRAFT ONLY—NOT FOR SIGNATURE**]
Minister for Government Services

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1 Name

This instrument is the *Data Availability and Transparency Regulations 2020*.

2 Commencement

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

| Commencement information | | |
|---------------------------------|--|--------------|
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. The whole of this instrument | The day after this instrument is registered. | |

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Data Availability and Transparency Act 2020*.

4 Definitions

In this instrument:

Act means the *Data Availability and Transparency Act 2020*.

5 Prescribed provisions (Acts)

For the purposes of paragraph 17(4)(a) of the Act, the provisions specified in the following table are prescribed.

Note: Sharing that is prohibited by a prescribed provision is excluded from the data sharing scheme.

| Prescribed provisions (Acts) | |
|---|-----------------------|
| Act | Prescribed provisions |
| <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i> | section 121 |
| | section 122 |
| | section 127 |
| | section 128 |
| | section 130 |
| | section 131 |

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Section 5

| Prescribed provisions (Acts) | |
|---|---|
| Act | Prescribed provisions |
| <i>Auditor-General Act 1997</i> | section 36 subsection 37(3) |
| <i>Australian Crime Commission Act 2002</i> | section 25A section 51 section 59AA |
| <i>Australian Federal Police Act 1979</i> | subsection 40ZA(2) subsection 60A(2) |
| <i>Australian Security Intelligence Organisation Act 1979</i> | subsection 8A(5) subsection 18(2) section 18A section 18B section 35P section 81 section 92 subsection 94(3) |
| <i>Aviation Transport Security Act 2004</i> | section 74 |
| <i>Building and Construction Industry (Improving Productivity) Act 2016</i> | section 106 |
| <i>Child Support (Assessment) Act 1989</i> | section 150 section 150AA |
| <i>Child Support (Registration and Collection) Act 1988</i> | section 16 section 16AA |
| <i>Commonwealth Electoral Act 1918</i> | subsection 90B(6) subsection 90B(7) subsection 90B(8A) section 91A section 91B subsection 176(3) subsection 189A(4) section 189B section 323 paragraph 390(1)(b) |
| <i>Crimes Act 1914</i> | section 15JQ section 15JR section 15LB section 15LC section 15YR |
| <i>Criminal Code</i> | section 91.1 section 91.2 section 91.3 |

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Section 5

| Prescribed provisions (Acts) | |
|--|------------------------------|
| Act | Prescribed provisions |
| | section 91.6 |
| | section 91.8 |
| | section 91.11 |
| | section 91.12 |
| | section 92.2 |
| | section 92.3 |
| | section 92.4 |
| | section 92.7 |
| | section 92.8 |
| | section 92A.1 |
| | section 105.41 |
| | section 105.45 |
| | section 122.1 |
| | section 122.2 |
| | section 122.3 |
| | section 122.4A |
| <i>Defence Act 1903</i> | section 73A |
| <i>Defence Force Discipline Act 1982</i> | section 58 |
| <i>Director of Public Prosecutions Act 1983</i> | section 8 |
| <i>Foreign Proceedings (Excess of Jurisdiction) Act 1984</i> | section 18 |
| <i>Health Insurance Act 1973</i> | section 106ZR |
| <i>Inspector-General of Intelligence and Security Act 1986</i> | section 34 |
| <i>Inspector of Transport Security Act 2006</i> | section 67 |
| <i>Intelligence Services Act 2001</i> | section 39 |
| | section 39A |
| | section 40 |
| | section 40B |
| | section 40C |
| | section 40D |
| | section 40E |
| | section 40F |
| | section 40G |
| | section 40H |
| | section 40L |
| | section 40M |
| | section 41 |
| <i>My Health Records Act 2012</i> | section 59 |
| | section 59A |
| | section 60 |

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Section 5

| Prescribed provisions (Acts) | |
|--|--|
| Act | Prescribed provisions |
| | section 70B |
| <i>National Redress Scheme for Institutional Child Sexual Abuse Act 2018</i> | section 99 section 104 |
| <i>National Security Information (Criminal and Civil Proceedings) Act 2004</i> | paragraph 29(5)(e) subsection 38PE(3) subsection 38PF(2) section 40 section 41 section 43 section 45 section 46 section 46A section 46B section 46D section 46F section 46G section 46H |
| <i>Office of National Intelligence Act 2018</i> | section 42 section 44 |
| <i>Privacy Act 1988</i> | section 94D section 94E subsection 94F(2) |
| <i>Proceeds of Crime Act 2002</i> | subsection 210(1) subsection 210(2) section 217 subsection 223(1) subsection 223(2) subsection 223(3) subclause 9(1) of Schedule 1 subclause 9(2) of Schedule 1 clause 16 of Schedule 1 |
| <i>Public Interest Disclosure Act 2013</i> | section 20 section 65 |
| <i>Public Service Act 1999</i> | subsection 72A(2) subsection 72B(2) |
| <i>Referendum (Machinery Provisions) Act 1984</i> | subsection 62B(2) section 116 |
| <i>Royal Commissions Act 1902</i> | section 60H |
| <i>Surveillance Devices Act 2004</i> | section 45 |
| <i>Telecommunications Act 1997</i> | subsection 315H(3) |

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| Prescribed provisions (Acts) | |
|--|---|
| Act | Prescribed provisions |
| | subsection 317ZF(1) |
| <i>Telecommunications (Interception and Access) Act 1979</i> | section 63 section 108 section 133 section 181A section 181B section 182 section 182A |
| <i>Witness Protection Act 1994</i> | subsection 16(3) section 22 section 22A section 22B section 28 section 28A |

6 Prescribed provisions (legislative instruments)

For the purposes of paragraph 17(4)(a) of the Act, the provisions specified in the following table are prescribed.

Note: Sharing that is prohibited by a prescribed provision is excluded from the data sharing scheme.

| Prescribed provisions (legislative instruments) | |
|--|--|
| Legislative instrument | Prescribed provisions |
| <i>Australian Federal Police Regulations 2018</i> | section 17 section 28 section 36 |
| <i>Defence (Inquiry) Regulations 2018</i> | section 36 section 37 |
| <i>Defence Regulation 2016</i> | section 37 |
| <i>Inspector-General of the Australian Defence Force Regulation 2016</i> | subsection 21(3) |

7 Circumstances in which sharing is excluded

For the purposes of paragraph 17(4)(c) of the Act, sharing is excluded in the circumstance that the data shared is data collected by the Director of Professional Services Review for the purposes of Part VAA (the Professional Services Review Scheme) of the *Health Insurance Act 1973*.