

EXPLANATORY STATEMENT

Personally Controlled Electronic Health Records (Consequential Amendments) Act 2012

Proclamation

Item 2 of the table in subsection 2(1) of the *Personally Controlled Electronic Health Records (Consequential Amendments) Act 2012* (the Consequential Amendments Act) provides that Schedule 1 commences on a day or days to be fixed by Proclamation. However, if any of the provisions do not commence by the later of 1 July 2012 and the day the Consequential Amendments Act receives the Royal Assent, they commence on the day after the later of those days. The Consequential Amendments Act received the Royal Assent on 26 June 2012.

The purpose of the Proclamation is to fix 29 June 2012 as the day on which Schedule 1 commences.

Schedule 1 makes amendments to the *Healthcare Identifiers Act 2010*, the *Health Insurance Act 1973* and the *National Health Act 1953* to ensure that the *Personally Controlled Electronic Health Records Act 2012* (the PCEHR Act) operates appropriately and effectively.

The PCEHR Act provides for the establishment and operation of a national personally controlled electronic health record (PCEHR) system which will provide access to health information relating to consumers' healthcare. From 1 July 2012 it is anticipated that consumers will be able to apply to register for a PCEHR, if they choose to do so, and registered consumers will be able to control access to their PCEHR by healthcare provider organisations.

This Proclamation enables real data testing of the PCEHR system to be undertaken before the system goes live on 1 July 2012. To date, all testing of the PCEHR system has been undertaken using test data which comprises fictitious demographic and healthcare identifier details. Testing the system with data on real persons cannot occur until provisions of Schedule 1 of the Consequential Amendments Act commence.

The Department has consulted with the agencies that will be involved in operating the PCEHR system, namely the Department of Human Services and the National Infrastructure Partner.

Sections 1 and 2 of the Consequential Amendments Act, which relate to the short title and commencement of the Consequential Amendments Act, commenced on the day the Consequential Amendments Act received the Royal Assent.

The Proclamation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

STATEMENT OF COMPATIBILITY FOR A BILL OR LEGISLATIVE INSTRUMENT THAT DOES NOT RAISE ANY HUMAN RIGHTS ISSUES

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

**Personally Controlled Electronic Health Records (Consequential Amendments)
Proclamation 2012**

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The Legislative Instrument will proclaim Schedule 1 to the *Personally Controlled Electronic Health Records (Consequential Amendments) Act 2012* (the Act) to commence on 29 June 2012.

The Act makes amendments to the *Healthcare identifiers Act 2010*, the *National Health Act 1953* and the *Health Insurance Act 1973* in order to ensure that the personally controlled electronic health record (PCEHR) system operates appropriately and effectively.

The PCEHR system will, among other things, help to address the fragmentation of health information across the Australian health system and improve access to health information for consumers and healthcare providers.

The Legislative Instrument will enable live data testing to be undertaken on the PCEHR before the system goes live nationally on 1 July 2012.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights of freedoms.

Conclusion

The Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

Minister for Health, the Hon Tanya Plibersek MP